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4 John Stuart, *Sui Juris*
Authorized Representative
5

6 UNITED STATES DISTRICT COURT
7 DISTRICT OF ARIZONA

8 JOHN STUART,

9 Plaintiff,

10 vs.

11 **Paul McMurdie**, individually, and in his
official capacity as a Judge of the Maricopa
12 County Superior Court, State Of Arizona;
13 and **Susie Charbel**, individually, and in her
official capacity as a Prosecutor of the
14 County of Maricopa, State Of Arizona; and
15 **Paul Dalton**, individually, and in his
official capacity as a Police Detective of the
16 City of Phoenix, State of Arizona; and **Al**
17 **Shearer**, individually, and in his official
capacity as a Police Detective of the City of
18 Phoenix, State of Arizona; and **John**
19 **Johnson**, individually, and in his official
capacity as a Public Defender of the
20 Maricopa County Superior Court, State Of
21 Arizona; and **Tyler Harrison**, individually,
22 and in his official capacity as a Public
23 Defender of the Maricopa County Superior
24 Court, State Of Arizona; and **Robert E.**
25 **Lyon, DO**, individually, and in his official
capacity as Maricopa County Medical
26 Examiner, State Of Arizona

27 Defendants
28

Case No.

VERIFIED COMPLAINT

ALLEGING:

(1) VIOLATION OF PLAINTIFF'

CIVIL RIGHTS; AND

(2) CIVIL CONSPIRACY TO VIOLATE

PLAINTIFF' CIVIL RIGHTS; AND

(3) INTENTIONAL OR NEGLIGENT

INFLICTION OF EMOTIONAL

DISTRESS; AND

(4) ALIENATION OF AFFECTION OF

FAMILY AND FIANCE / COMMON

LAW WIFE

(Trial by Jury Demanded)

1 **Comes Now, a natural flesh and blood man known to God as His Servant, yet**
2 **known to other Men by the name John Stuart, *sui juris*, and the sole Authorized**
3 **Representative for the *ens legis* known to this and all Courts as JOHN STUART,**
4 **commencing this action in the interest of justice in an attempt to amicably settle and**
5 **equitably resolve the purposeful damage caused by defendants in violation of**
6 **defendants duties, ethics, and morals, and under color of State Law.**

8 Plaintiff has NO other remedy available as Plaintiff has been threatened with being
9 falsely imprisoned under contempt of court if Plaintiff attempts any remedy in Arizona.

11 Pursuant to, *inter alia*, 42 U.S.C.A. § 1983, JOHN STUART, [STUART or
12 “Plaintiff”] through undersigned agent, *sui juris*, sues defendants and alleges:

13 **I. INTRODUCTION.**

14
15 1. This Complaint concerns an ongoing criminal court case filed by THE STATE OF
16 ARIZONA, on or about July 11, 2008, [*due to a Grand Jury remand from a case*
17 *originating in January, 2008*], *inter alia*, against JOHN STUART in the Superior Court of
18 Arizona, County of Maricopa, Case No. CR2008-106594-001.

19
20 2. This Complaint concerns the conduct of above captioned defendants, **Paul McMurdie**,
21 individually, and in his official capacity as a Judge of the Maricopa County Superior
22 Court, State Of Arizona; and **Susie Charbel**, individually, and in her official capacity as a
23 Prosecutor of the County of Maricopa, State Of Arizona; and **Paul Dalton**, individually,
24 and in his official capacity as a Police Detective of the City of Phoenix, State of Arizona;
25 and **Al Shearer**, individually, and in his official capacity as a Police Detective of the City
26 of Phoenix, State of Arizona; and **John Johnson**, individually, and in his official capacity
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1 as a Public Defender of the Maricopa County Superior Court, State Of Arizona; and **Tyler**
2 **Harrison**, individually, and in his official capacity as a Public Defender of the Maricopa
3 County Superior Court, State Of Arizona; and **Robert E. Lyon, DO**, individually, and in
4 his official capacity as Maricopa County Medical Examiner, Defendants.
5

6 3. As explained below, the conduct of defendants in the criminal case have crossed the
7 thin line from discretion to disregard for and violation of Plaintiff's God given rights,
8 including violation of the Plaintiff's Civil Rights found in the United States Constitution,
9 specifically, the Fifth and Fourteenth Amendments, and Plaintiff's Rights under Arizona
10 law and the Arizona Constitution.
11

12 4. As a direct result of defendants violations of Plaintiff's Civil Rights, and in accordance
13 with, *inter alia*, 42 U.S.C.A. § 1983, Plaintiff has suffered, and will continue to suffer,
14 damages, as described in this Complaint, as well as continue to incur litigation expenses as
15 authorized by 42 U.S.C.A. § 1983, in the amount of at least Eight Million Dollars
16 (\$8,000,000.00), an amount above the minimum required for the Court's jurisdiction,
17 which amount shall be determined accurately according to proof at trial.
18
19

20 **II. JURISDICTION, VENUE AND PARTIES.**

21 5. Plaintiff claims federal jurisdiction pursuant to Article III § 2 of the U.S. Constitution,
22 which extends the Court's jurisdiction to cases arising under the U.S. Constitution.
23

24 6. In addition, this is an action brought pursuant to 42 U.S.C.A. § 1983, 42 U.S.C.A. §
25 1985, 42 U.S.C.A. § 1986, and 28 U.S.C.A. §§ 1331, 1343, seeking damages,
26 including costs of litigation and reasonable attorney's fees, against the above captioned
27 defendants for committing acts, under color of state and/or federal law, that deprived
28

1 Plaintiff of rights secured by, *inter alia*, the Fifth and Fourteenth Amendments to the
2 Constitution of the United States [U.S. Const. Amend. V and XIV].

3
4 7. In addition, this court has original jurisdiction pursuant to, *inter alia*, 28 U.S.C.A. §§
5 1331 and 1343.

6 8. The violation of Plaintiff's rights alleged in this complaint was committed within
7 Maricopa County, Arizona; consequently, venue is proper in this district pursuant to
8 28 U.S.C.A. § 1391(b).

9
10 9. Plaintiff, STUART, is considered by the court a resident of Maricopa County, Arizona.

11 10. Defendants, McMurdie, Charbel, Dalton, Shearer, Johnson, Harrison, and Robert E.
12 Lyon, DO, were, at all times material, judicial officers and/or State agents employed by
13 the County of Maricopa, and/or the State of Arizona and/or the City of Phoenix, and were
14 acting individually, and/or in concert and conspiracy, under the color of authority of
15 the laws of the United States and/or the State of Arizona.

16
17 11. This Court has jurisdiction to hear this matter pursuant to ALL appropriate statutes and
18 Laws; and by solemn permission granted by John Stuart, *a laymen*, who by Law and
19 precedent and in accordance with the Supreme Court of the United States decisions MAY
20 NOT be held to the same standard as a lawyer and/or attorney; and whose motions,
21 pleadings and all papers may ONLY be judged by their function and never their form.

22
23 *See: Haines v. Kerner; Platsky v. CIA; Anastasoff v. United States; Litigants are to*
24 *be held to less stringent pleading standards;*
25 *Haines v. Kerner, 404 U.S. 519-421; In re Haines: pro se litigants are held to less*
26 *stringent pleading standards than admitted or licensed bar attorneys. Regardless of*
27 *the deficiencies in their pleadings, pro se litigants are entitled to the opportunity to*
28 *submit evidence in support of their claims.*

1 Platsky v. C.I.A., 953 f.2d. 25; In re Platsky: court errs if court dismisses the pro se
2 litigant without instruction of how pleadings are deficient and how to repair
3 pleadings.

4 Anastasoff v. United States, 223 F.3d 898 (8th Cir. 2000); In re Anastasoff:
5 litigants' constitutional (guaranteed) rights are violated when courts depart from
6 precedent where parties are similarly situated.

7 **Accordingly, Plaintiff moves this Court to advise Plaintiff of defects in**
8 **pleadings and procedures, and the like, and allow Plaintiff time to do the required**
9 **corrections before dismissing and/or denying said pleadings, and the like.**

10 12. All of the Defendants are State of Arizona, County of Maricopa and/or City of
11 Phoenix, “agents” and/or “employees” and have conspired under color of state law to
12 fraudulently prosecute Plaintiff for surviving a kidnapping, which is not a crime, as
13 Arizona Law justifies actions, even deadly physical force, to **survive a kidnapping** when
14 the victim is inside his own vehicle.

15 13. This Verified Complaint is supported by the law of the case listed herein, the prior
16 rulings of the referenced Court herein, the docket of said case, each of which are
17 incorporated by this reference as fully set forth, and for each of which Plaintiff moves this
18 Court to take judicial notice thereof.

19 **III. FACTUAL ALLEGATIONS.**

20 **Defendants have conspired to violate Plaintiff's civil rights**

21
22
23 14. The evidence and record in Superior Court of Maricopa County, *inter alia*, case
24 number CR2008-106594-001 [Hereafter, the case] proves conclusively that defendants
25 have jointly and severally committed numerous unlawful and unethical acts to falsely
26 prosecute a man they have seen evidence, *and therefore have knowledge*, proving he is
27 innocent.
28

1 15. Defendants have conspired to continue the prosecution in an attempt to conceal their
2 numerous unlawful and unethical acts instead of doing what the concept of *Rectum Rogare*
3 requires them to do and admit their mistakes and dismiss with prejudice said case.
4

5 16. The evidence that has been purposely, lost, destroyed and/or purposely not recovered
6 by defendants coupled with the appropriate Arizona Law(s) is prima facie evidence of
7 defendants conspiracy, a violation of “Racketeer Influenced and Corrupt Organizations
8 Act”; 18 U.S.C.A. § 1961–1968, to fraudulently prosecute an innocent man under color of
9 state law and in violation of Plaintiff’s substantive Rights.
10

11 17. It is a requirement, pursuant to numerous SCOTUS, 9th Circuit decisions, *et al*, that
12 ALL of the evidence either lost, destroyed and/or not recovered by defendants MUST be
13 considered exculpatory, *and in fact all said evidence is exculpatory and as such is the true*
14 *reason the agents have lost, destroyed and/or refused to recover said evidence*, and
15 therefore the evidence which would prevent the State from prosecuting Plaintiff but has
16 been lost, destroyed, and/or purposely not recovered by the defendant, MUST still be
17 considered to exist and to be exculpatory and thus said evidence DOES still prevent the
18 State from prosecuting Plaintiff:
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21 *See: 10th Cir. 1986) 799 F2d 593, 613 Brady violation*
22 *Arizona v. Youngblood (1988) 488 US 51, 57-8 [102 LEd2d 281; 109 SCt 333]*
23 *Kyles v. Whitley (1995) 514 US 419 [131 LEd2d 490, 115 SCt 1555]*
24 *Carriger v. Stewart (9th Cir. 1997) 132 F3d 463, 481*
25 *United States v. Hanna (9th Cir. 1995) 55 F3d 1456, 1460*
26 *U.S. v. Sager (9th Cir. 2000) 227 F3d 1138, 1145*
27 *U.S. V. Howell (9th Cir. 2000) 231 F3d 615, 625*
28 *Kyles, 514 US at 443;*
Bowen v. Maynard
People v. Wimberly (CA 1992) 5 CA4th 773, 793 [7 CR2d 152]
Tinsley v. Jackson (KY 1989) 771 SW2d 331, 332
State v. Maiccia (IA 1984) 355 NW2d 256, 259

1 Sanborn v. Commonwealth (KY 1988) 754 SW2d 534, 539
2 People v. Wimberly, supra, 5 CA4th 773, 793
3 State v. Ferguson (TN 1999) 9 SW2d 912, 917
4 State v. Fulminante (AZ 1999) 975 P2d 75, 93 [citing State v. Willits (AZ 1964)
5 People v. Medina (CA 1990) 51 C3d 870, 894 [274 CR 849]

6 18. In fact, a cursory inspection of the ten (10) or so most recent hearings will show the
7 Court committed at least one (1) violation of a Rule of court, an Arizona Law, Substantive
8 Right, Constitutionally guaranteed Right, and/or a combination thereof in almost every
9 hearing. Currently, it appears EVERY time Plaintiff is forced to appear, *under threat*,
10 *duress and coercion*, in that Court Plaintiff's Substantive Rights are violated in at least one
11 way or another by that Court and/or its officers, known in this case as defendants.

12 19. The violations and crimes committed by the State's agents are too numerous to be
13 covered in Willits instructions, as would normally be allowed for a few errors. It would be
14 a functional impossibility for any judge to succinctly explain to a jury how the State could
15 make so many purposeful errors and which errors should be construed as a conspiracy
16 and/or accidentally committed, even though the agents involved have years of experience.

17 20. One of the allegations was so preposterous Judge Steinle refused to continue the
18 Prosecution's attempt to add those charges against Plaintiff. It was homicide detectives
19 Dalton and Shearer's contention that Plaintiff was a "political radical" due to the single
20 fact Plaintiff had copies of documents in his personal vehicle that spoke of human rights
21 and estoppels on the government. These documents Dalton and Shearer spoke of, *but*
22 *refused to name in open court*, are the Declaration of Independence, the United States
23 Constitution and the Bill of Rights. The fact Dalton and Shearer were not familiar with
24 said documents should in itself give this Court pause as to the nature of the charges and
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1 Charbel's malicious prosecution of Plaintiff, especially since these are the SAME
2 documents Dalton and Shearer swore an oath to protect. It is repugnant to every concept
3 of decency that a man who swears an oath to protect a document can accuse another man
4 of being a criminal for simply being in possession of the very same document and yet the
5 man making the allegation is not then charged for. This simple faux pas is a perfect
6 illustration of just how ridiculous and corrupt defendants have acted in the case, CR2008-
7
8 106594-001.

9
10 21. In another instance of Prosecutorial misconduct and malicious prosecution, Charbel
11 committed perjury to Judge Baca to fraudulently obtain an arrest warrant for Plaintiff by
12 claiming the I.R.S. had confiscated Plaintiff's bail. [see: Exhibit A at exhibit B] Plaintiff
13 was unlawfully arrested and falsely imprisoned due directly to Charbel's felonious act of
14 perjury. Plaintiff was released from custody the next day pursuant to the Court's order
15 [see: Exhibit A at exhibit B] stating that "did not have jurisdiction to file a petition to
16 revoke based on the I.R.S. levy." *It must be noted that Pre-Trial Services was contacted by*
17 *Charbel and/or Charbel's office in an attempt to have Pre-Trial Services file false and*
18 *perjurious documents attesting to Plaintiff's violations of the Pre-Trial Services order. A*
19 *Pre-Trial Services supervisor was terminated over her involvement in the filing of the false*
20 *and perjurious complaint claiming Plaintiff had violated the Pre-Trial Services Order.*
21 *Plaintiff has NEVER violated ANY requirement of the Per-Trial Services order.*

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24
25 22. Most recently, on or about December 14, 2009, McMurdie has stricken from the record
26 without just cause or right, and in violation of his judicial ethics and oath of office, an
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28

1 **Amicus Curiae Brief and/or Judicial Notice Pursuant to 18 U.S.C.A. § 4: Misprision**
2 **of Felony** entered into the case by a public officer, *a Notary Public*. [see: Exhibit A].

3
4 23. The Amicus Curiae Brief and/or Judicial Notice listed over fifty (50) crimes and
5 violations defendants committed to continue prosecuting Plaintiff. Although this Court
6 has jurisdiction to view ALL of the crimes and violations committed by defendants, yet, in
7 the interest of brevity and the requirements of this Court, only some of the crimes will be
8 illuminated in this document. For this Court's benefit Plaintiff will include a more
9 complete list below of the laws, Plaintiff, a layman, discovered. Plaintiff therefore enters
10 into evidence said Amicus Curiae Brief and/or Judicial Notice:
11

- 12 **A.** Arizona Rules of Criminal Procedure: 1.1, 1.2, 3.1(b), 3.1(c), 6.1(c), 6.3(a),
13 .3(c), 8.1(d), 8.2(a), 8.4, 8.5(b), 8.6, 11.2(a), 11.4(a) & (b), 12.6,
14 15.1, 15.6, 35.1, 39, and others.
15 **B.** Arizona Revised Statute: §§ 13-303, 13-404, 13-405, 13-406, 13-407, 13-
16 407, 13-411, 13-412, 13-418, 13-1304, 13-2407, 13-2409, 13-2705,
17 13-2802, 13-2804, 13-2809, 13-2907.01, 13-3884, 13-3889, 13-3902, 13-
18 3920, 13-4401, 21-422, 39-161, 11- 594(a)(2), and others.
19 **C.** Arizona Rules of Evidence: 102, 401, 407, 501, 602, 609, 613, 1101, and
20 others.
21 **D.** United States Constitution Amendments: 6, 10, 14, and others.
22 **E.** Arizona Constitution Article II §§ 2, 4, 10, 11, 13, 23, 24, and others.

23 24. As previously decided in this State several decades hence past and considered by all
24 Courts the primary precedent that changed how investigations and prosecutions are
25 conducted by law enforcement agencies throughout this Country:
26

27 **Miranda v. Arizona**, 384 U.S. 436 (1966), was a landmark 5-4 decision of
28 the United States Supreme Court which was argued February 28–March 1,
29 1966 and decided June 13, 1966. The Court held: "**Rights secured by the
30 constitution cannot be abrogated by rules or regulation.**"

31 And in another State:

1 **Although the Constitution of the United States does not cite it explicitly,**
2 **presumption of innocence is widely held to follow from the 5th, 6th and 14th**
3 **amendments. See: *Coffin v. United States*, 156 U.S. 432 (1895);**

4 25. Defendants have conspired under color of state law to deny Plaintiff his Substantive
5 Rights and prevent Plaintiff from receiving Due Process of Law protection as guaranteed
6 by the Federal and State Constitutions, and Laws of Arizona. The conspiracy has caused
7 great harm to Plaintiff, including without limits, loss of liberty; loss of freedom; wrongful
8 imprisonment; financial destitution; loss of his fiancé; alienation of affection by his fiancé;
9 loss of affection by friends, and family; great physical pain and visual deterioration from
10 eight months of being held in a jail without any sunlight; loss of reputation; loss of earning
11 ability; loss of Real Estate License; deterioration of credit rating; loss of three (3) homes;
12 loss of boat; loss of two (2) motorcycles; loss of vehicle; loss of savings; and other
13 possessions; for a sum loss of :

- 14 Financially (*current cost, fees and losses*): **\$2,000,000**
- 15 Future earnings: **\$2,000,000**
- 16 Punitive **\$4,000,000**
- 17 Total: **\$8,000,000**

18 26. The conspiracy by the State agents is so egregious and yet so obvious that a cursory
19 inspection of the docket will yield evidence of numerous felonies committed by each of
20 the State’s agents to continue to harm Plaintiff as a means of obfuscating the facts so as to
21 hide the felonies committed by said agents from the public.

22 27. The apparent focus of defendants’ conspiracy is to prevent Plaintiff from availing
23 himself to A.R.S. § 13-418 and ANY exculpatory evidence that proves A.R.S. § 13-418

1 applies to Plaintiff's actions and/or the incident. Each defendants has played some part
2 and acted in some way, jointly and/or severally, to hide and/or destroy and/or prevent the
3 discovery of exculpatory evidence that proves the cause of the kidnapper's death was the
4 kidnapper's own actions and/or the actions of the other kidnapper, and ANY alleged
5 involvement by Plaintiff in the kidnapper's death would be justified pursuant to Arizona
6 Law.
7

8 28. It is functional impossibility for the following to be a coincidence: that the exculpatory
9 evidence Dalton refused to recover, destroy and/or lose; the Law Charbel refused to
10 mention to the first grand jury; the perjury Dalton committed while testifying to both
11 grand juries; the exculpatory evidence McMurdie allowed to be destroyed; the exculpatory
12 evidence the Robert E. Lyon, DO, refused to test for; the exculpatory evidence that
13 Johnson has refused to attempt to discover; that all evidence provided to the grand jury
14 was hearsay; withholding the fact that the kidnapper was "extremely intoxicated from the
15 grand jury; ALL proves that A.R.S. § 13-418 applies in the matter known as CR2008-
16 106594 AND that Plaintiff may not be tried for the death of the kidnapper, and even if
17 Plaintiff did cause the death of the kidnapper, Plaintiff's actions would still be justified
18 under Arizona Law.
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22 29. More simply stated; defendants have conspired under color of state law to prevent
23 Plaintiff from availing himself to Arizona state Law as a justification defense against the
24 fraudulent charges of the State by: destroying, hiding, refusing to recover, and/or maintain,
25 altering, misrepresenting, and/or the like any and all exculpatory evidence and/or
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1 exculpatory witness statements; and dismissing pleadings and the like to allow the Court
2 to obfuscate the facts and prevent the public and/or a jury from discovering the truth.

3 *See:* A.R.S. § 13-3920 Retention of property

4 *See also:* A.R.S. § 2809 Tampering with physical evidence;

5 **As stated in the warrant:** [*see:* Exhibit A at exhibit A]

6 **“You are therefore commanded...(See 11 and 13 below)...to make search of**
7 **the above named or described person(s)...and if you find the same or any part**
8 **thereof, to retain such in your custody or in the custody of the Phoenix Police**
9 **Department, as provided by Arizona Revised Statute 13-3920. (Emphasis**
10 **added) Warrant #:SW2008-000552 (Bate Stamp 000169).**

11 **11) THE CLOTHING WORN BY JOHN C. STUART**

12 **13) A BLOOD SAMPLE OF JOHN C. STUART**

13 30. Detective Dalton refused, even after numerous requests by Plaintiff, to take the
14 clothing worn by Plaintiff, as ordered by the Warrant. The blood splatter on the clothing
15 proved conclusively that the kidnapper was inside of Plaintiff’s vehicle when the
16 kidnapper was shot. The kidnapper being inside of the vehicle would have invoked A.R.S.
17 § 13-418 as a justification defense for the alleged actions of Plaintiff, a point which was
18 important enough to Charbel for her to NOT mention A.R.S. § 13-418 to the first grand
19 jury. The failure to mention this Statute gave cause for the case to be remanded back to
20 the grand jury.

21 31. In the second grand jury Charbel did allow the grand jury to know of A.R.S. § 13-418,
22 but in response to the grand juries questions concerning justification Detective Dalton
23 committed perjury by stating the witnesses claimed the kidnapper never entered Plaintiff’s
24 vehicle. This could in no way be considered just a “*mis-statement*” as Detective Dalton
25 was informed by several witnesses that the kidnapper had entered Plaintiff’s vehicle and
26 had even tried to remove Plaintiff from the vehicle by Plaintiff’s neck while strangling
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1 Plaintiff. Detective Dalton's perjurious statements when coupled with Charbel s' previous
2 failure to inform the grand jury of the corresponding law and the fact it was Dalton that
3 purposely violated the warrant and refused to take Plaintiff's clothing as evidence could be
4 nothing other than purposeful abuse of the grand jury system to fraudulently obtain an
5 indictment.
6

7 32. McMurdie did not remand a second time on the grounds Charbel and Dalton would
8 never do it right no matter how many times it was remanded back to the grand jury. In
9 essence, McMurdie claimed they always do it wrong so we won't have them do it again.
10

11 33. McMurdie's concept is similar to a witch trial of seeing if the accused sinks when
12 weighted with rocks, if he does he is human since he drowned, and if he doesn't he is a
13 witch so the Court will burn him at the stake. Basing judicial decisions on such prejudicial
14 concepts prohibits any defendant from even the possibility of a fair trial.
15

16 34. If McMurdie had not violated Plaintiff's Substantive Rights and remanded the case
17 back to the grand jury again with the Court's requirement that Dalton and Charbel fully
18 inform the grand jury of the facts and the appropriate laws Plaintiff would have most
19 likely NOT been indicted as the grand jury would have understood A.R.S. § 13-418 and
20 known said law justified the use of deadly force in the situation.
21

22 35. The fact McMurdie allowed a fraudulent indictment to stand as grounds to falsely
23 prosecute Plaintiff is evidence of McMurdie conspiring with Dalton and Charbel to falsely
24 prosecute Plaintiff.
25

26 36. Dalton refused medical treatment for Plaintiff's injuries in another attempt to destroy
27 exculpatory evidence. Medical evidence of Plaintiff's injuries would have proved
28

1 conclusively that the kidnapper had harmed Plaintiff, therefore bolstering Plaintiff's
2 justification defense.

3
4 37. The vehicle has been outside in the elements since January 2008. Any exculpatory
5 evidence that may have been on the outside of the vehicle has likely been compromised by
6 exposure to the sun, wind, rain, *etc.* The loss of this exculpatory evidence is prejudicial to
7 Plaintiff because exculpatory evidence of the kidnapper's blood on the vehicle, and the
8 specific locations of the blood on the vehicle, furthers Plaintiff's claim of self defense
9 and/or justification. This exculpatory evidence could be used to show that the kidnapper
10 was partially inside of Plaintiff's vehicle at the time of the incident, not several feet away,
11 as the State is knowingly fraudulently claiming. *The stippling evidence proves the*
12 *kidnapper was only 15 to 21 inches from the gun when he was shot, blood evidence on the*
13 *vehicle proves conclusively that the kidnapper's head was against Plaintiff's vehicle's*
14 *door and the kidnapper's arms were inside the vehicle.*

15
16
17 38. The police officers also did not permit Plaintiff to take a breathalyzer test and/or give a
18 blood sample, as also required by the Warrant. The results of these tests would have
19 shown the Plaintiff's Blood Alcohol Level [.000] at the time of arrest, which would have
20 proved Plaintiff, was sober at the time of the kidnapping.

21
22 39. The holster, and the holster strap that was torn off the holster during the struggle for
23 the gun, *which can be seen in pictures of the vehicle*, is now mysteriously missing from the
24 evidence. The strap is another piece of exculpatory evidence. The strap proves there was
25 a struggle for the gun between the kidnapper and Plaintiff and, without the strap, Charbel
26 will claim Plaintiff drew the gun instead of pulling it back from the kidnapper. The force
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1 needed to tear the strap from the holster would require the strength of two men. It is a
2 functional impossibility for Plaintiff, or any normal human being, to have torn the strap
3 from the holster by himself. [See, Exhibit B, picture of holster without the strap on vehicle
4 floor].
5

6 **IV. CONSPIRACY TO VIOLATE PLAINTIFF' CIVIL RIGHTS.**

7 **[Alleged against Judge McMurdie]**

8
9 40. Plaintiff incorporates herein by reference all the allegations made in the preceding
10 paragraphs of this Complaint as though each preceding allegation, statement, etc., is fully
11 set forth herein.

12 41. Judge McMurdie has presided over the case in a manner that violates Plaintiff' civil
13 rights by preventing Plaintiff from waiving the right to counsel in violation of, *inter alia*,
14 A.R.Crim.P. Rule **6.1(c)**, under color of authority and/or color of state law.
15

16 42. Judge McMurdie has presided over the case in a manner that violates Plaintiff' civil
17 rights by preventing Plaintiff from filing motions and/or pleadings in violation of, *inter*
18 *alia*, A.R.Crim.P. Rule **6.1(c)**, under color of authority and/or color of state law.
19

20 43. Judge McMurdie has presided over the case in a manner that violates Plaintiff' civil
21 rights by preventing Plaintiff from demanding the Court to follow the Arizona Rules of
22 Criminal Procedure in violation of, *inter alia*, A.R.Crim.P. Rules **1.1 and 1.2**, under color
23 of authority and/or color of state law.
24

25 44. Judge McMurdie has presided over the case in a manner that violates Plaintiff' civil
26 rights by preventing the Court following the Arizona Rules of Criminal Procedure in
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1 violation of, *inter alia*, A.R.Crim.P. Rule **1.1**, under color of authority and/or color of state
2 law.

3
4 45. Judge McMurdie has presided over the case in a manner that violates Plaintiff' civil
5 rights by preventing Plaintiff from having discovery in violation of, *inter alia*,
6 A.R.Crim.P. Rule **15**, and others as appropriate depending on the issues to be discovered.

7
8 46. Judge McMurdie has presided over the case in a manner that violates Plaintiff' civil
9 rights by the actions described above that appear orchestrated and appear aimed at aiding
10 Charbel to prevail in the case, in violation of, *inter alia*, **R.I.C.O.**, under color of authority
11 and/or color of state law.

12
13 47. Judge McMurdie has presided over the case in a manner that violates Plaintiff' civil
14 rights by described above were willful and/or malicious and/or *ultra vires* conduct
15 deserving the imposition of punitive damages, and greatly expanding those damages.

16
17 48. Judge McMurdie has presided over the case in a manner that violates Plaintiff' civil
18 rights by allowing Harrison to withdraw without another attorney being ready to proceed
19 in violation of, *inter alia*, A.R.Crim.P. Rule **6.3(c)**, under color of authority and/or color of
20 state law.

21
22 49. Judge McMurdie has presided over the case in a manner that violates Plaintiff' civil
23 rights by allowing Johnson to trespass on the case by "acting" as attorney of record
24 without having entered a Notice of Appearance, a violation of, *inter alia*, A.R.Crim.P.
25 Rule **6.3(a)**, under color of authority and/or color of state law.

26
27 50. Judge McMurdie has presided over the case in a manner that violates Plaintiff' civil
28 rights by not having a valid oath of office and is therefore an imposter pursuant to, *inter*

1 *alia*, A.R.S. §§ 38-231, 232, 233, and/or 234, under color of authority and/or color of state
2 law. [*see*: Exhibit C, McMurdie oath of office with explanation of errors].

3
4 51. Judge McMurdie has presided over the case in a manner that violates Plaintiff' civil
5 rights by allowing Harrison to trespass on the case by "acting" as attorney of record
6 without having entered a Notice of Appearance, a violation of, *inter alia*, A.R.Crim.P.
7 Rule **6.3(a)**, under color of authority and/or color of state law.

8
9 52. Judge McMurdie has presided over the case in a manner that violates Plaintiff' God
10 given and civil rights by; violating sections, *inter alia*, of A.R.Crim.P Rule **8**, under color
11 of authority and/or color of state law.

12
13 53. Judge McMurdie has presided over the case in a manner that violates Plaintiff' civil
14 rights by fraudulently allowing continuances against Plaintiff's wishes and absent
15 Plaintiff's agreement, and not in the interest of justice, that were requested by attorneys
16 that were trespassing on the case and in detriment to Plaintiff's Substantive Rights, and
17 damaging Plaintiff's defense in said case.

18
19 54. Judge McMurdie has presided over the case in a manner that violates Plaintiff' civil
20 rights by forcing Plaintiff into a Rule **11** Examination without filing a proper motion
21 listing the reason for such, a violation of, *inter alia*, A.R.Crim.P. Rule **11.2(a)**, under color
22 of authority and/or color of state law.

23
24 55. Judge McMurdie has presided over the case in a manner that violates Plaintiff' civil
25 rights by allowing the prosecution to fail to respond to Plaintiff's motions and still denying
26 said motions, in violation of, *inter alia*, A.R.Crim.P. Rule **35.1**, under color of authority
27 and/or color of state law.
28

1 56. Judge McMurdie has presided over the case in a manner that violates Plaintiff' civil
2 rights by allowing the prosecution to interview and coerce witness without ever informing
3 Plaintiff that the witnesses were interviewed in an attempt to conceal from Plaintiff the
4 fact the prosecution is coercing witnesses, in violation of, *inter alia*, A.R.Crim.P. Rules
5 **15.1, 15.6**, and others depending on the depth of the coercion of the witnesses by Charbel,
6 under color of authority and/or color of state law.
7

8 57. Judge McMurdie does not have the authority to strike a Judicial Notice entered into the
9 record by a public officer. Such abhorrent behavior by McMurdie coupled with
10 McMurdie's previous orders preventing Plaintiff from entering motions and/or speaking in
11 court and also unlawfully preventing Plaintiff's Authorized Representative from acting as
12 counsel is prima facie evidence of McMurdie's involvement in the conspiracy to
13 fraudulently convict Plaintiff.
14

15 58. Judge McMurdie has violated his oath of office, *even if McMurdie's oath is not valid*,
16 and McMurdie's actions MUST be considered treason against the United States.
17

18 *See: U.S. v. Will, 449 U.S. 200, 216, 101 S.Ct. 471, 66 L.Ed.2d 392, 406 (1980);*
19 *and Cohens v. Virginia, 19 U.S. (6 Wheat) 264, 404, 5 L.Ed 257 (1821)*

20 Whenever a judge acts where he/she does not have jurisdiction to act, the judge is
21 engaged in an act or acts of treason, *without immunity*.

22 *See also: Cooper v. Aaron, 358 U.S. 1, 78 S.Ct. 1401 (1958).* The U.S. Supreme
23 Court has stated that "No state legislator or executive or judicial officer can war
24 against the Constitution without violating his undertaking to support it."

25 *See also: In re Sawyer, 124 U.S. 200 (1888),* If a judge does not fully comply with
26 the Constitution, then his orders are void...he/she is without jurisdiction, and he/she
27 has engaged in an act or acts of treason.
28

59. Judge McMurdie violated Plaintiff's civil rights by making willful and/or malicious
and/or *ultra vires* rulings.

60. The actions of Judge McMurdie described above were willful and/or malicious

1 and/or *ultra vires* conduct deserving the imposition of punitive damages.

2 61. Judge McMurdie removed from the record a document entered into evidence by a
3 Notary Public under 18 U.S.C.A. § 4. McMurdie committed perjury in open court on or
4 about December 14, 2009 by claiming Plaintiff entered said document into court, *while*
5 *under order by McMurdie not to*, so as to allow McMurdie to strike said document from
6 the record. It is outside of McMurdie's authority to strike a document from the record
7 entered by ANY public officer, therefore, McMurdie's actions were done under color of
8 law and not lawful AND said act is prima facie evidence of McMurdie conspiring with
9 Charbel to prevent exculpatory evidence from being in the record.
10
11

12 "Whenever a judge acts where he/she does not have jurisdiction to act, the judge is
13 engaged in an act or acts of treason." *U.S. v. Will*, 449 U.S. 200, 216, 101 S.Ct.
14 471, 66 L.Ed.2d 392, 406 (1980); *Cohens v. Virginia*, 19 U.S. (6 Wheat) 264, 404,
15 5 L.Ed 257 (1821)

16 62. Judge McMurdie, on or about, January 21, 2009, denied Plaintiff's Motion in Limine
17 #9 to prevent Dalton from destroying exculpatory evidence. This is another obvious
18 attempt by McMurdie to conspire with the others, this time Dalton, to prevent Plaintiff
19 from availing himself to exculpatory evidence.
20

21 63. JUDICIAL IMMUNITY: Judges have given themselves judicial immunity for their
22 judicial functions. Judges have no judicial immunity for criminal acts, aiding, assisting, or
23 conniving with others who perform a criminal act, or for their administrative/ ministerial
24 duties. When a judge has a duty to act, he does not have discretion - he is then not
25 performing a judicial act, he is performing a ministerial act.
26
27
28

1 Judicial immunity does not exist for judges who engage in criminal activity, for
2 judges who connive with, aid and abet the criminal activity of another judge, or to a judge
3 for damages sustained by a person who has been harmed by the judge's connivance with,
4 aiding and abetting, another judge's criminal activity.
5

6 **TRESPASSERS OF THE LAW**

7 The Illinois Supreme Court has held that "if the magistrate has not such jurisdiction,
8 then he and those who advise and act with him, or execute his process, are
9 trespassers." *Von Kettler et.al. v. Johnson*, 57 Ill. 109 (1870)

10 Under Federal law which is applicable to all states, the U.S. Supreme Court stated
11 that if a court is "without authority, its judgments and orders are regarded as
12 nullities. They are not voidable, but simply void; and form no bar to a recovery
13 sought, even prior to a reversal in opposition to them. They constitute no
14 justification; and all persons concerned in executing such judgments or sentences,
15 are considered, in law, as trespassers." *Elliot v. Piersol*, 1 Pet. 328, 340, 26 U.S.
16 328, 340 (1828)

17 The Illinois Supreme Court held that if a court "could not hear the matter upon the
18 jurisdictional paper presented, its finding that it had the power can add nothing to its
19 authority, - it had no authority to make that finding." *The People v. Brewer*, 128 Ill.
20 472, 483 (1928). The judges listed below had no legal authority (jurisdiction) to hear
21 or rule on certain matters before them. They acted without any jurisdiction.

22 When judges act when they do not have jurisdiction to act, or they enforce a void
23 order (an order issued by a judge without jurisdiction), they become trespassers of the law,
24 and are engaged in treason (see below).

25 The Court in *Yates v. Village of Hoffman Estates, Illinois*, 209 F.Supp. 757 (N.D. Ill.
26 1962) held that "not every action by a judge is in exercise of his judicial function. ...
27 it is not a judicial function for a judge to commit an intentional tort even though the
28 tort occurs in the courthouse."

When a judge acts as a trespasser of the law, when a judge does not follow the law,
the judge loses subject-matter jurisdiction and the judges orders are void, of no legal
force or effect.

The U.S. Supreme Court, in *Scheuer v. Rhodes*, 416 U.S. 232, 94 S.Ct. 1683, 1687
(1974) stated that "when a state officer acts under a state law in a manner violative
of the Federal Constitution, he "comes into conflict with the superior authority of
that Constitution, and he is in that case stripped of his official or representative
character and is subjected in his person to the consequences of his individual

1 conduct. The State has no power to impart to him any immunity from responsibility
2 to the supreme authority of the United States." [Emphasis supplied in original].
3 *By law, a judge is a state officer.*

4 TREASON

5 Whenever a judge acts where he/she does not have jurisdiction to act, the judge is
6 engaged in an act or acts of treason. *U.S. v. Will*, 449 U.S. 200, 216, 101 S.Ct. 471,
66 L.Ed.2d 392, 406 (1980); *Cohens v. Virginia*, 19 U.S. (6 Wheat) 264, 404, 5
L.Ed 257 (1821)

8 **[Alleged against Prosecutor Charbel]**

9 64. Plaintiff incorporates herein by reference all the allegations made in the preceding
10 paragraphs of this Complaint as though each preceding allegation, statement, etc., is fully
11 set forth herein.

12
13 65. Prosecutor Charbel has prosecuted this case in a manner that violates Plaintiff' civil
14 rights by Charbel purposely refusing to inform the first grand jury of, *inter alia*, A.R.S. §
15 13-418, *inter alia*, then in the second grand jury redirected questions from the jurors away
16 from A.R.S. § 13-418 and assisted Dalton in not answering questions about the kidnapper
17 attacking Plaintiff. Charbel has not only repeatedly attempted to prevent the Court's
18 acknowledgement of A.R.S. § 13-418, she has refused to prosecute the kidnapper as an
19 accessory to kidnapping pursuant, *inter alia*, A.R.S. § 13-1304 and even granted the
20 kidnapper "victim" status, under color of authority and/or color of state law.
21

22
23 66. Prosecutor Charbel has prosecuted this case in a manner that violates Plaintiff' civil
24 rights by attempting to use the authority of her office under color of state law to prevent
25 Plaintiff from using the "justification defense" by Charbel unlawfully granting the
26 kidnapper "victim" status.
27
28

1 67. Prosecutor Charbel has prosecuted this case in a manner that violates Plaintiff' civil
2 rights by attempting to use the authority of her office under color of state law to prevent
3 Plaintiff from interviewing the sole surviving kidnapper, which is unlawfully preventing
4 Plaintiff from availing himself to his best defense and/or justification.
5

6 68. Prosecutor Charbel has prosecuted this case in a manner that violates Plaintiff' civil
7 rights by refusing to allow Plaintiff to appear before the grand jury in violation of, *inter*
8 *alia*, A.R.Crim.P. Rule **12.6**, under color of authority and/or color of state law.
9

10 69. Prosecutor Charbel has prosecuted this case in a manner that violates Plaintiff' civil
11 rights by; violating, *inter alia*, A.R.S. § 3-2907.01 False reporting to law enforcement
12 agencies, under color of authority and/or color of state law.
13

14 70. Prosecutor Charbel has prosecuted this case in a manner that violates Plaintiff' civil
15 rights by; violating, *inter alia*, Arizona Rules of Evidence Rule **102** under color of
16 authority and/or color of state law.
17

18 71. Prosecutor Charbel has prosecuted this case in a manner that violates Plaintiff' civil
19 rights by; violating, *inter alia*, Arizona Rules of Evidence Rule **407**, under color of
20 authority and/or color of state law.
21

22 72. Prosecutor Charbel has prosecuted this case in a manner that violates Plaintiff' civil
23 rights by; violating, *inter alia*, A.R.Crim.P. Rule **3.1(b)** Issuance of warrant or summons,
24 under color of authority and/or color of state law.
25

26 73. Prosecutor Charbel has prosecuted this case in a manner that violates Plaintiff' civil
27 rights by; violating, *inter alia*, A.R.Crim.P. Rule **35.1** Motions: form, content and rights of
28 reply, under color of authority and/or color of state law.

1 74. Prosecutor Charbel has prosecuted this case in a manner that violates Plaintiff' civil
2 rights by ignoring witness statements that attest to the fact the kidnappers where
3 committing numerous felonies, including without limits, the felonious act of kidnapping
4 pursuant to Federal and Arizona Law. The fact Charbel has refused to charge the
5 kidnapper with a crime that Charbel is well aware the kidnapper committed is prima facie
6 evidence of Charbel's part in the aforementioned conspiracy to deprive Plaintiff of
7 Plaintiff's substantive Rights under color of state law AND Charbel is using her
8 prosecutorial discretion to maliciously prosecute an innocent man and protect an obviously
9 guilty woman.

12 Arizona Revised Statute §13-1304. Kidnapping

13 A. A person commits kidnapping by knowingly restraining
14 another person with the intent to:

- 15 1. Hold the victim for ransom, as a shield or hostage; or
- 16 2. Hold the victim for involuntary servitude; or
- 17 3. **Inflict death, physical injury** or a sexual offense on the
18 victim, or to otherwise aid in the commission of a felony; or
- 19 4. Place the **victim or a third person in reasonable**
20 **apprehension of imminent physical injury to the victim**
21 **or the third person;** or
- 22 5. **Interfere with the performance of a governmental or**
23 **political function;** or
- 24 6. **Seize or exercise control over any** airplane, train, bus, ship
25 **or other vehicle.** *(All emphasis added)*

26 75. It is currently unclear whether Charbel, *with Dalton's, and McMurdie's, and Johnson's*
27 *assistance*, are falsely prosecuting Plaintiff as a guise to not prosecute the kidnapper or
28 Charbel is unlawfully not prosecuting the kidnapper as a guise to falsely prosecute
Plaintiff. It is however now known that the kidnapper had heretofore unclear financial ties
with County Attorney Andrew Thomas and Maricopa County Sherriff Joe Arpaio and the
malicious prosecution of Plaintiff appears to be some type of retaliation against Plaintiff in

1 an attempt to prevent the Court and the Public from discovering what group and/or persons
2 are also involved in these financial ties. ***It should be noted that Plaintiff testified in***
3 ***Federal Court against Sherriff Joe Arpaio in the Federal Civil Action against Arpaio***
4 ***for “prisoner torture.”*** [see: U.S.D.C. Arizona Division Case No. CV-77-0479-PHX-
5 NVW].
6

7 76. Prosecutor Charbel has prosecuted this case in a manner that violates Plaintiff’ civil
8 rights by Charbel refusing to file kidnapping charges against the kidnapper even though
9 the requirements for the kidnapping charges were met when the kidnappers attacked
10 Plaintiff.
11

12 77. Prosecutor Charbel has prosecuted this case in a manner that violates Plaintiff’ civil
13 rights by the fact that Prosecutor Charbel and/or the State has charged several people with
14 kidnapping pursuant to, *inter alia*, A.R.S. § 13- 1304 for the same behavior and criminal
15 acts that the kidnappers committed against Plaintiff yet the State is refusing on the sole
16 bases that such a charge would prevent the State from pursuing Plaintiff.
17

18 78. Prosecutor Charbel has prosecuted this case in a manner that violates Plaintiff’ civil
19 rights by Charbel choosing to allow an obviously guilty person go without being charged
20 so the State’s fraudulent case against an obviously innocent man can continue.
21

22 79. Prosecutor Charbel has prosecuted this case in a manner that violates Plaintiff’ civil
23 rights by sometime in October of 2009 Charbel attempted to coerce a witness into assisting
24 her in falsely charging Plaintiff’s primary witness with a crime to coerce said witness into
25 changing her testimony.
26
27
28

1 80. Prosecutor Charbel has prosecuted this case in a manner that violates Plaintiff' civil
2 rights by committing perjury to Judge Baca to fraudulently obtain a warrant for Plaintiff's
3 arrest by claiming that a letter from the Internal Revenue Service had confiscated
4 Plaintiff's bond. Said letter made no such claim and in fact Plaintiff was released from
5 custody the next day by Judge Stienle after Judge Steinle read the I.R.S. letter.
6

7 81. Prosecutor Charbel has prosecuted this case in a manner that violates Plaintiff' civil
8 rights by refusing to charge the kidnapper with crimes committed by one of the kidnappers
9 that lead to the death of the other kidnapper in an attempt to fraudulently grant victim
10 status to the surviving kidnapper, a person that Arizona law requires Charbel to at least
11 charge as an accessory to kidnapping and also charge for first degree murder under the
12 felony murder rule.
13

14 82. Prosecutor Charbel has prosecuted this case in a manner that violates Plaintiff' civil
15 rights by, purposely, with malice aforethought, failing to mention A.R.S. § 13-418 to the
16 first grand jury in order to secure a fraudulent indictment against Plaintiff. Then in the
17 second grand jury Charbel mis-directed questions from the grand jury to Dalton so as to
18 prevent the grand jury from understanding A.R.S. § 13-418 [see: Exhibit A at exhibit F]
19 AND also interrupted questions from the jurors to Dalton about whether the kidnapper
20 entered Plaintiff's vehicle in an attempt to protect Dalton from committing further acts of
21 perjury or cover-up. This assistance by Charbel for Dalton is yet another piece of prima
22 facie evidence of their conspiracy.
23
24
25

26 /

27 //

28

1 **[Alleged against Detective Dalton and/or Detective Shearer]**

2 83. Plaintiff incorporates herein by reference all the allegations made in the preceding
3 paragraphs of this Complaint as though each preceding allegation, statement,
4 etc., is fully set forth herein.
5

6 84. Detective Dalton and/or Shearer have investigated this case in a manner that violates
7 Plaintiff' civil rights by blatantly committing numerous felonies and **purposely violating**
8 **the commands of a lawfully issued warrant** to set this tragedy of criminal violations in
9 progress. It is obvious Dalton and/or Shearer are operating under the belief Police
10 Officers are above the Law and cannot be held accountable for their actions. This train of
11 thought is the basis for Dalton and/or Shearer's continued unlawful acts. So far, it appears
12 Dalton and/or Shearer are above the Law as any "citizen" that violates a warrant is
13 immediately incarcerated.
14
15

16 85. Succinctly stated: If Dalton had not committed the felonious act of violating the
17 warrant and acted pursuant to his sworn oath and accordingly confiscated Plaintiff's
18 clothing as **ORDERED BY THE WARRANT**, the kidnapper's blood on Plaintiff's
19 clothing would have proved conclusively that the kidnapper was inside Plaintiff's vehicle
20 when the kidnapper was shot AND the State would have no grounds to prosecute Plaintiff
21 pursuant to the justification clause granted to the people under, *inter alia*, A.R.S. §13-418.
22 The original felony committed by Dalton is what set in motion this ongoing and
23 continuous unlawful prosecution of an innocent man. Additionally, it is reprehensible that
24 Dalton will most likely never be sanctioned or held accountable in any way for his
25
26
27
28

1 criminal acts by the Court he is contemptuous of and assisting to falsely prosecute
2 Plaintiff.

3
4 *See: U.S. v. Will, Id; Cohens v. Virginia, Id; Cooper v. Aaron, Id; In re Sawyer, Id.*

5 *See: Arizona Revised Statute § 13-418. Justification; use of force in defense*
6 *of residential structure or occupied vehicles; definitions*

7 A. Notwithstanding any other provision of this chapter, **a person is**
8 **justified in** threatening to use or **using** physical force or **deadly physical**
9 **force against another person if the person reasonably believes himself or**
10 **another person to be in imminent peril of death or serious physical**
11 **injury** and the person against whom the physical force or deadly physical
12 force is threatened or used **was in the process of unlawfully or forcefully**
13 **entering, or had unlawfully or forcefully entered, a residential structure**
14 **or occupied vehicle, or had removed or was attempting to remove another**
15 **person against the other person's will from the residential structure or**
16 **occupied vehicle.**

17 B. **A person has no duty to retreat before** threatening or **using**
18 physical force or **deadly physical force** pursuant to this section.

19 C. For the purposes of this section:

20 1. "Residential structure" has the same meaning prescribed in
21 section 13-1501.

22 2. **"Vehicle" means a conveyance of any kind**, whether or not
23 motorized, that is designed to transport persons or property.

24 *(All emphasis added)*

25 86. A closer look at, *inter alia*, Arizona's SB 1145 as passed by the House and signed by
26 the Governor in April of 2006, which then became A.R.S. § 13-418 reveals it has five
27 major thrusts:

28 (1) Previously, "justification" defenses, including self-defense, were
affirmative defenses. The defendant (or self-defender) had to prove them by a
preponderance of the evidence (*i.e.*, proof of "more likely true than not). Under SB
1145, if the defense presents "evidence" (quantum undefined) of justification, the
prosecution must disprove justification to a "beyond a reasonable doubt"
standard.

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(2) **No duty to retreat** before using force to prevent certain serious offenses, including aggravated assault. Again, this applies anywhere, any place a person has a right to be, in the language of the law.

(3) A person is presumed to be justified in deadly force if he/she reasonably believes they or another are in imminent peril and the attacker has entered or is trying to enter a occupied auto.

(4) A person is generally presumed to be justified in use of force if the attacker has unlawfully forced his way into a car or is trying to do so (with certain exceptions, such as if the person forcing in had a legal right to be in there).

(5) If the aggressor is foolish enough to sue, and the defender wins, the defender recovers attorney fees and lost income (presumably, lost while at the courthouse).

87. Detective Dalton has investigated this case in a manner that violates Plaintiff' civil rights by: on or about January 30, 2008 Dalton was issued Warrant #:SW2008-000552 (Bate Stamp 000169), *Id.*, requiring Dalton to confiscate Plaintiff's clothing and samples of Plaintiff's blood and urine;

i) Dalton refused to take Plaintiff's clothes as the kidnapper's blood on Plaintiff's clothes would prove that the kidnapper was inside Plaintiff's vehicle when the kidnapper savagely attacked Plaintiff, thereby invoking A.R.S. § 13-418 and preventing the State from lawfully prosecuting Plaintiff; and

ii) Dalton refused to take Plaintiff's blood and urine as such would prove that Plaintiff was sober when the kidnapper savagely attacked Plaintiff; and

1 88. Detective Dalton have investigated this case in a manner that violates Plaintiff' civil
2 rights by refusing to allow Plaintiff to be seen by medical personal as Plaintiff's injuries
3 would have proven the kidnapper did violently assault Plaintiff; and
4

5 89. Detective Dalton and/or Shearer have investigated this case in a manner that violates
6 Plaintiff' civil rights by refusing to protect other exculpatory evidence in an attempt to
7 prevent Plaintiff from proving justification:
8

9 i) Holster and holster strap: the holster and strap are missing. This evidence
10 would prove there was a fight over the gun as it is not possible for one man to tear the
11 strap from the holster; and

12 ii) Vehicle: Plaintiff's vehicle has been left out in the elements so the blood
13 evidence would be washed off. The placement of the blood on the vehicle proves that one
14 of the kidnappers was up against and partially inside Plaintiff's vehicle when he died; and

15 iii) Dalton destroyed ALL original notes, **thereby destroying ALL first hand**
16 **knowledge and therefore making ALL notes nothing more than hearsay**, written by
17 police officers and purposely entered altered descriptions into the Police computer system.
18

19 90. Detective Dalton has investigated this case in a manner that violates Plaintiff' civil
20 rights by committing perjury to two grand juries by falsely stating that the witness had
21 claimed the kidnapper never entered Plaintiff's vehicle.
22

23 91. Detective Dalton has investigated this case in a manner that violates Plaintiff' civil
24 rights by committing perjury that was also only hearsay evidence as Dalton was NOT a
25 witness to the incident and is ONLY a witness to the crimes Dalton committed to destroy
26 the evidence and/or record and the **first hand evidence** of the real witness's statements.
27
28

1 92. Detective Dalton and/or Shearer have investigated this case in a manner that violates
2 Plaintiff' civil rights by; violating, *inter alia*, A.R.S. § 13-2804 Tampering with a witness,
3 under color of authority and/or color of state law.
4

5 93. Detective Dalton and/or Shearer have investigated this case in a manner that violates
6 Plaintiff' civil rights by; violating, *inter alia*, A.R.S. § 13-2809 Tampering with physical
7 evidence, under color of authority and/or color of state law.
8

9 94. Detective Dalton and/or Shearer have investigated this case in a manner that violates
10 Plaintiff' civil rights by; violating, *inter alia*, A.R.S. § 13-3920 Retention of property,
11 under color of authority and/or color of state law.
12

13 95. Detective Dalton has investigated this case in a manner that violates Plaintiff' civil
14 rights by; violating, *inter alia*, A.R.S. § 13-3902 Treatment of arrested person, under color
15 of authority and/or color of state law.
16

17 96. Detective Dalton and/or Shearer have investigated this case in a manner that violates
18 Plaintiff' civil rights by; violating, *inter alia*, A.R.S. § 21-422 (3)(4) Powers and duties,
19 under color of authority and/or color of state law.
20

21 97. Detective Dalton and/or Shearer have investigated this case in a manner that violates
22 Plaintiff' civil rights by; violating, *inter alia*, A.R.S. § 13-2802 Influencing a witness,
23 under color of authority and/or color of state law.
24

25 98. Detective Dalton has investigated this case in a manner that violates Plaintiff' civil
26 rights by; violating A.R.S. § 39-161 Presentment of false instrument for filing, under color
27 of authority and/or color of state law.
28

1 99. Detective Dalton and/or Shearer have investigated this case in a manner that violates
2 Plaintiff' civil rights by; violating, *inter alia*, A.R.S. § 13-2407 Tampering with a public
3 record, under color of authority and/or color of state law.
4

5 100. Detective Dalton and/or Shearer have investigated this case in a manner that violates
6 Plaintiff' civil rights by; violating, *inter alia*, A.R.S. § 13-2409 Obstructing criminal
7 investigations or prosecutions, under color of authority and/or color of state law.
8

9 101. Detective Dalton and/or Shearer have investigated this case in a manner that violates
10 Plaintiff' civil rights by; violating, *inter alia*, A.R.S. § 13-2705 Perjury by inconsistent
11 statements, under color of authority and/or color of state law.
12

13 102. Detective Dalton and/or Shearer have investigated this case in a manner that violates
14 Plaintiff' civil rights by; violating, *inter alia*, A.R.S. § 3-2907.01 False reporting to law
15 enforcement agencies, under color of authority and/or color of state law.
16

17 103. Detective Dalton and/or Shearer have investigated this case in a manner that violates
18 Plaintiff' civil rights by his either complete ineptness and/or purposeful criminal activity to
19 hide, destroy, and/or not maintain any and all exculpatory evidence and thereby impacting
20 the credibility of the evidence pursuant to numerous precedents:

21 **Inept Police Work Impacts The Credibility And Weight Of The Prosecution's**
22 **Evidence**

23 As the Supreme Court noted in Kyles v. Whitley (1995) 514 US 419 [131 LEd2d
24 490, 115 SCt 1555] "when . . . the probative force of evidence depends on the
25 circumstances in which it was obtained and those circumstances raise a possibility
26 of fraud, indications of conscientious police work will enhance probative force and
27 slovenly work will diminish it." (Id. at 446 n.15; see also id. at 442 n13 [discussing
28 the utility of attacking police investigations as "shoddy"]; id. at 445-49; cf. Carriger
v. Stewart (9th Cir. 1997) 132 F3d 463, 481; United States v. Hanna (9th Cir. 1995)
55 F3d 1456, 1460.)

1 "Details of the investigation process potentially affect [the investigating
2 officer's] credibility and more importantly, the weight to be given to evidence
3 produced by his investigation." (U.S. v. Sager (9th Cir. 2000) 227 F3d 1138, 1145.)
4 For example, investigative mistakes "hurt the credibility of the Government's
5 witnesses." (U.S. V. Howell (9th Cir. 2000) 231 F3d 615, 625.) They provide a basis
6 for arguing that the prosecution's case is "haphazard and inconsistent as well as
7 prone to errors." (Ibid.)

8 Hence, the defendant should be permitted to "attack . . . the thoroughness
9 and even good faith of the investigation . . ." (Kyles, 514 US at 443; see also
10 Bowen v. Maynard (10th Cir. 1986) 799 F2d 593, 613 ["A common trial tactic of
11 defense lawyers is to discredit the caliber of the investigation or the decision to
12 charge the defendant and we may consider such evidence in assessing a possible
13 Brady violation"].)

14 **Investigative Inadequacy Is Analogous To Prosecutorial Destruction, 15 Suppression Or Loss Of Evidence**

16 **a. Bad Faith**

17 When the prosecution has intentionally destroyed evidence, at a minimum, the jury
18 should be instructed that it may infer that the destroyed evidence would have been
19 favorable to the defendant and adverse to the prosecution . (See e.g., People v.
20 Wimberly (CA 1992) 5 CA4th 773, 793 [7 CR2d 152]; Tinsley v. Jackson (KY 1989)
21 771 SW2d 331, 332; State v. Maiccia (IA 1984) 355 NW2d 256, 259 [where
22 defendant's due process rights were violated by destruction of evidence the
23 appropriate remedy was jury instruction permitting favorable inference for defendant
24 from destruction of evidence]; Sanborn v. Commonwealth (KY 1988) 754 SW2d
25 534, 539 [prosecutor's intentional erasing of tape recorded statements required
26 reversal with directions to give defendant from destruction of the evidence].)
27 Similarly an attempted destruction of evidence implicates the due process clause of
28 the federal constitution. (See, e.g., Arizona v. Youngblood (1988) 488 US 51, 57-8
[102 LEd2d 281; 109 SCt 333].) Such a willful attempt to destroy evidence should
be authorized an instruction allowing the jury to draw an inference adverse to the
prosecution. (See e.g., People v. Wimberly, *supra*, 5 CA4th 773, 793.)

29 **b. Negligence**

30 Even in the absence of bad faith, instruction may be appropriate under state law,
31 especially where the loss of the evidence is unfair to the defense. (See e.g., State v.
32 Ferguson (TN 1999) 9 SW2d 912, 917.) For example, many jurisdictions have relied
33 on state law to reject or "twist" Youngblood's absolute requirement of bad faith in
34 favor of a multi-factor balancing test.
35 "When police negligently fail to preserve potentially exculpatory evidence, an
36 instruction [is properly given which] permits the jury to infer that the evidence would
37 have been exculpatory." (State v. Fulminante (AZ 1999) 975 P2d 75, 93 [citing State
38 v. Willits (AZ 1964) 393 P2d 274 [no bad faith required for instruction that if State

1 destroyed evidence that might have been helpful to defendant, jury may infer that
2 evidence would have been unfavorable to the State]; see also People v. Medina (CA
3 1990) 51 C3d 870, 894 [274 CR 849] [once defendant has proved a loss of material
4 evidence the trial court retains "discretion to impose appropriate sanctions, including
5 fashioning a suitable cautionary instruction. "].)

6 **[Alleged against Public Defender Johnson]**

7 104. Plaintiff incorporates herein by reference all the allegations made in the preceding
8 paragraphs of this Complaint as though each preceding allegation, statement, etc., is fully
9 set forth herein.

10 105. Johnson has defended this case in a manner that violates Plaintiff' civil rights by
11 never filing a Notice of Appearance in the case, a violation of, *inter alia*, A.R.Crim.P.
12 Rule **6.3(a)**, under color of authority and/or color of state law.

13 106. Johnson has defended this case in a manner that violates Plaintiff' civil rights by
14 never interviewing the witnesses.

15 107. Johnson has defended this case in a manner that violates Plaintiff' civil rights by not
16 objecting to Judge McMurdie's unlawful demand for a Rule **11** Examination.

17 108. Johnson has defended this case in a manner that violates Plaintiff' civil rights by
18 moving the Court for an evidentiary hearing to find Plaintiff as incompetent even after the
19 State's psychologists determined Plaintiff to be competent.

20 109. Johnson has defended this case in a manner that violates Plaintiff' civil rights by
21 moving the Court for a continuance after Harrison withdrew, a violation of, *inter alia*,
22 A.R.Crim.P. Rule **6.3(c)**, under color of authority and/or color of state law.

23 110. Johnson has defended this case in a manner that violates Plaintiff' civil rights by not
24 answering and/or returning Plaintiff's numerous calls.
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1 111. Johnson has defended this case in a manner that violates Plaintiff' civil rights by
2 doing almost nothing to prepare for trial.

3 112. Johnson has defended this case in a manner that violates Plaintiff' civil rights by
4 causing Speedy Trial and Due process Rights to be violated, under color of authority
5 and/or color of state law.
6

7 **[Alleged against Public Defender Harrison]**

8 113. Plaintiff incorporates herein by reference all the allegations made in the preceding
9 paragraphs of this Complaint as though each preceding allegation, statement, etc., is fully
10 set forth herein.
11

12 114. Harrison has defended this case in a manner that violates Plaintiff' civil rights by
13 never filing a Notice of Appearance in the case, a violation of, *inter alia*, A.R.Crim.P.
14 Rule **6.3(a)**, under color of authority and/or color of state law.
15

16 115. Harrison has defended this case in a manner that violates Plaintiff' civil rights by
17 never interviewing the witnesses.
18

19 116. Harrison has defended this case in a manner that violates Plaintiff' civil rights by
20 withdrawing from the case one month before trial, a violation of, *inter alia*, A.R.Crim.P.
21 Rule **6.3(c)**, under color of authority and/or color of state law.

22 117. Harrison has defended this case in a manner that violates Plaintiff' civil rights by not
23 answering and/or returning Plaintiff's numerous calls until the last week before Harrison's
24 withdrawal, only to inform Plaintiff that Harrison was withdrawing.
25

26 118. Harrison has defended this case in a manner that violates Plaintiff' civil rights by
27 doing almost nothing to prepare for trial.
28

1 119. Harrison has defended this case in a manner that violates Plaintiff' civil rights by
2 causing Speedy Trial and Due process Rights to be violated, under color of authority
3 and/or color of state law.
4

5 **[Alleged against Maricopa County Medical Examiner Robert E. Lyon, DO]**

6 120. Plaintiff incorporates herein by reference all the allegations made in the preceding
7 paragraphs of this Complaint as though each preceding allegation, statement, etc., is fully
8 set forth herein.
9

10 121. Robert E. Lyon, DO has investigated this case in a manner that violates Plaintiff' civil
11 rights by not testing the kidnapper's hair for L.S.D. even though the kidnapper was an
12 admitted frequent user of LSD.
13

14 122. Robert E. Lyon, DO has investigated this case in a manner that violates Plaintiff' civil
15 rights by not testing the kidnapper for steroids even though the kidnapper had a steroid
16 inhaler in his possession when he savagely attacked Plaintiff.
17

18 123. Robert E. Lyon, DO has investigated this case in a manner that violates Plaintiff' civil
19 rights by not testing the kidnapper for other signs of "roid rage" and other illicit drug use
20 as the kidnapper's admitted frequent use of illegal drugs should is cause to test for such.
21

22 124. Robert E. Lyon, DO has investigated this case in a manner that violates Plaintiff' civil
23 rights by not testing the kidnapper's stomach and bladder contents that contained "900 ml
24 of pinkish brown liquid." *Robert E. Lyon, DO refused to test the liquid, which if all the*
25 *liquid was alcohol would mean the kidnapper would most likely soon die of alcohol*
26 *poisoning and accordingly would then be having a violent psychotic episode.*
27
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1 125. Robert E. Lyon, DO has investigated this case in a manner that violates Plaintiff' civil
2 rights by; violating, *inter alia*, A.R.S. § 11-594 Powers and duties of county medical
3 examiner, under color of authority and/or color of state law.
4

5 **V. ERRORS AND CRIMES COMMITTED BY DEFENDANTS**

6 126. Plaintiff incorporates herein by reference all the allegations made in the preceding
7 paragraphs of this Complaint as though each preceding allegation, statement, etc., is fully
8 set forth herein.
9

10 127. The issues in the case, if viewed independently, may appear as simple errors but,
11 viewed in the totality of the case, are too numerous to ignore as simple errors. From the
12 very start of the case the State has failed in its duties to protect the substantive Rights of
13 Plaintiff. The numerous crimes committed throughout the case have made it impossible
14 for Plaintiff to form and/or prove any viable defense against the onslaught of continued
15 false allegations, violations of Arizona Rules of Criminal Procedure, Arizona Rules of
16 Evidence, Arizona Revised Statutes, and the Federal and State Constitutions.
17

18 **[Substantive Rights violated]**

19
20 128. Plaintiff incorporates herein by reference all the allegations made in the preceding
21 paragraphs of this Complaint as though each preceding allegation, statement, etc., is fully
22 set forth herein.
23

24 129. **Right to waive counsel:** McMurdie has several times threatened Plaintiff in open
25 court with arrest for “contempt of court” if Plaintiff did not accept Johnson as Plaintiff’s
26 Public Defender. McMurdie went so far as forcing Plaintiff into a Rule **11** examination
27 without just cause and without a motion stating the reason for such, in violation, *inter alia*,
28

1 A.R.Crim.P. P. Rule **11.2**, Johnson assisted McMurdie even after Plaintiff was deemed
2 competent by requesting an evidentiary hearing to invalidate the state paid examiner's
3 contention that Plaintiff was and is competent.
4

5 130. **Right to fair and impartial proceedings:** Plaintiff has not been allowed to speak in
6 the last ten or so hearings without being threatened by McMurdie.

7 131. **Right to present evidence of exculpatory nature:** ALL exculpatory evidence has
8 been purposely destroyed, lost, not recovered, etc. by one or more of Defendants with
9 permission from McMurdie, even in an unlawful violation of the commands by a warrant.
10

11 132. **Right to medical assistance when arrested:** Dalton refused to allow Plaintiff to
12 receive medical assistance when first arrested as such medical assistance would have
13 proven Plaintiff was injured by the kidnapper during the kidnapper's violent assault and
14 kidnapping of Plaintiff.
15

16 133. **Right to speedy trial:** The case has been unlawfully continued several times against
17 Plaintiff's desires and in violation of law in an effort by defendants to have the memories
18 of the witnesses fade as the original witness statements have been destroyed by Dalton and
19 the witnesses have been inundated with false statements from Dalton to change the
20 witness's memories, a commonly known efficient technique that defendants would have to
21 commit perjury to deny knowing and using.
22

23 134. **Right to due process:** Defendants have violated almost every concept of due process
24 in numerous ways, as otherwise listed in this and other documents written by Plaintiff.
25

26 Any attempt to enumerate the violations completely would fail as the number is too high
27 and increases with every hearing and/or action by defendants.
28

1 135. **Right to not be falsely arrested:** Charbel committed perjury to Judge Baca to obtain
2 a fraudulently issued warrant on February 8, 2008 as evidenced by the I.R.S. letter in
3 comparison to the aforementioned warrant.
4

5 136. **Right to Free Speech:** Dalton and Charbel attempted to have Plaintiff charged as a
6 “political radical” for possessing certified copies of the Declaration of Independence, the
7 Constitution of these united States, and the Bill of Rights by claiming Plaintiff had
8 documents that spoke of “human rights and estoppels on the government.”
9

10 137. **Right to be free from unlawful search and seizure:** See: 129 thru 136 above.

11 138. **Right to Life, liberty, and the Pursuit of Happiness:** Plaintiff “life” has been stolen
12 by defendants unlawful acts. As is often said of the corrupt agents in Maricopa County
13 and their illicit behavior “they make not kill you but they will take your life whenever they
14 so chose”, such is true in this situation. Plaintiff has been unlawfully imprisoned; his
15 Liberty lost, falsely charged, and has lost almost every aspect of his “life” due to
16 defendants criminal acts. Plaintiff Liberty and Pursuit of Happiness have been completely
17 stolen for eight (8) months and greatly limited for almost two (2) years at the writing of
18 this complaint. Any possibility for Happiness has been so constrained due to the heinous
19 nature of Defendants’ false accusations that Plaintiff can ONLY attempt to survive this
20 ordeal as all of Plaintiff’s time is spent attempting to force defendants to follow at least
21 some of the Laws and estoppels placed on defendants by the State and Federal
22 Constitutions and Laws of the great State and Nation.
23
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26 139. **Right to free exercise of Religion:** Defendants, especially McMurdie, has purposely
27 prevented Plaintiff to exercise Plaintiff’s religious beliefs that the *ens legis* JOHN
28

1 STUART as charged by the indictment is a separate entity from the man known as John
2 Stuart.

3
4 140. **Right to peaceably assemble:** Plaintiff was threatened with execution while in jail
5 by Sherriff Joe Arpaio when a group assembled outside of the jail to demonstrate against
6 defendants' false arrest of Plaintiff. Plaintiff was placed in solitary confinement as a
7 means of torture to coerce Plaintiff into asking the assemblers to no longer publicly
8 assemble on his behalf.

9
10 141. **Right to redress of grievances:** Defendants, especially McMurdie, have prevented
11 Plaintiff, through unlawful acts of threats and coercion, from filing ANY documents in
12 court asserting Plaintiff's Rights.

13
14 142. **Right to keep and bear arms:** Plaintiff has been unlawfully ORDERED by the court
15 that he may not posses ANY weapons while he is on "supervised released." Even though
16 Plaintiff's life is in danger from the possibility of the kidnapper's retribution.

17
18 143. **Right to not be twice put in jeopardy of the same offence:** Judge Stienle did in
19 fact sign an order releasing Plaintiff from all liability in the case and then recused himself
20 and Charbel had said order sealed by the Court.

21 144. **Right to not be held to answer for a crime unless on a presentment or indictment**
22 **of a Grand Jury:** Plaintiff has the substantive Right to NOT be held to answer for a crime
23 that was NOT properly presented to a Grand Jury. Dalton and Charbel's numerous acts of
24 perjury and purposeful withholding of pertinent facts from two (2) Grand Juries is just
25 cause for Plaintiff to demand the Court reject the fraudulently obtained indictments and
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1 therefore the Court is trying an innocent man is being held to answer twice for a crime that
2 HAS NEVER been lawfully indicted.

3 Under *Nelson v. Royston*, 137 Ariz. 272, 669 P.2d 1349 (App. 1983). the indictment
4 cannot be based on misleading testimony concerning a material issue. As the court
5 stated in *Nelson v. Royston*, *supra*:

6 ...Plaintiff's second argument is that since it was shown that the witness perjured
7 herself before the grand jury, *United States v. Basurto*, 497 F.2d 781 (9th Cir.1974),
8 requires setting the indictment aside. The state responds by citing *State v. Jacobson*,
9 *22 Ariz.App. 128, 524 P.2d 962 (1974)*, where we found that the fact situation was
10 distinguishable from that in *Basurto*. In *Basurto* it was shown that the testimony
11 before the grand jury was perjured, that the prosecuting attorney knew of such
12 perjury and that the perjured testimony was material to the indictment. In *Jacobson*,
13 the alleged fabrication was not material to the indictment. The instant case,
14 however, is analogous to *Basurto*. Here, while we cannot say that the testimony
15 presented was perjured, we can say that the testimony before the grand jury was
16 misleading and that prosecutor knew of its misleading character. There is a duty of
17 good faith on the part of prosecutor with respect to the court, the grand jury, and the
18 defendant. *United States v. Basurto, supra*. In *Napue v. Illinois*, 360 U.S. 264, 79
19 S.Ct. 1173, 3 L.Ed.2d 1217 (1959), the supreme court stated:
20 ". . . a conviction obtained through use of false evidence, known to be such by
21 representatives of the State, must fall under the Fourteenth Amendment, [citations
22 omitted]. The same result obtains when the State, although not soliciting false
23 evidence, allows it to go uncorrected when it appears. [citations omitted]. 360 U.S.
24 at 269 [79 S.Ct. at 1177]."

25 *In Trebus v. Davis*, 189 Ariz. 621, 944 P.2d 1235 (1997) "the law requires
26 Prosecutor to instruct the grand jury on all the law applicable to the facts of the
27 case, even if the grand jury does not make any specific request for additional legal
28 instruction."

29 Yet in the second grand jury the jurors did attempt to ask Detective Dalton
30 about the assault and whether the kidnapper was inside of the Plaintiff's vehicle and
31 how such actions would be effected by the law. In response, Charbel redirected the
32 jurors away from the discussion to assist Dalton in not answering the question. This
33 is evidence of Dalton and Charbel conspiring to mislead the grand jury.

34 145. **Right to not have excessive bail:** Plaintiff's original bail amount was \$46,000. To
35 placate the press and without just cause defendants had Plaintiff's bail raised to almost

1 \$250,000. This was just another attempt by defendants to prevent Plaintiff from being
2 able to conduct a viable defense. Defendants had no bases and the judge had no cause to
3 raise Plaintiff's bail as Plaintiff had never violated ANY terms of his release. The raising
4 of Plaintiff's bail scared Plaintiff's attorneys so much due to the corrupt nature of the
5 fraudulent reason for raising the bail, and the false arrest of Plaintiff for the perjury
6 committed by Charbel concerning the I.R.S. letter that Plaintiff's attorney withdrew from
7 the case.
8

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10 146. **Right to not be subjected to cruel and unusual punishment:** Defendants falsely
11 charged Plaintiff with the crime of filing a false document into a public record. This is the
12 first time Plaintiff can find in history of this State AND this Country that ANY defendant
13 has been imprisoned for their attorney handing a document to a judge, an act Charbel
14 witnessed yet still charged Plaintiff with doing. Apparently this was just another attempt
15 by Charbel to falsely imprison Plaintiff to prevent him from forming an adequate defense.
16 Charbel falsely claimed Plaintiff filed the document even though she witnessed Plaintiff's
17 attorney hand the document to the judge's clerk. Charbel also falsely charged the act as a
18 felony to wrongfully imprison Plaintiff under the rules of committing a felony while out
19 on bond. Also, the charge was eventually altered to a misdemeanor that had a limit of four
20 (4) months in jail and yet Plaintiff had been falsely and unlawfully jailed for eight (8)
21 months. The conduct by Charbel is beyond reprehensible and is prima facie evidence
22 Charbel will let NO LAW STOP HER from maliciously prosecuting people she knows are
23 innocent in furtherance of her career and/or for vengeance for Plaintiff and Cantrell's
24 filing of a ARIZONA STATE BAR complaint against Charbel.
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1 **147. Right that judicial powers against a “Citizen” not be extended to any Foreign**

2 **State:** Although the Court would like to continue to believe, it is no longer true that most
3 Arizonans still think Maricopa County Superior Court is a government agency. It is well
4 known, and easily proven, that Maricopa County Superior Court is a “corporate entity”
5 and Foreign to the State and Citizens of Arizona. Hence the reason Maricopa County
6 Superior Court is prosecuting the *ens legis* JOHN STUART and fraudulently forcing John
7 Stuart, the natural Man, a living breathing man, to suffer the consequences of Maricopa
8 County Superior Court’s illicit and/or colorable activities.
9
10

11 **148. Right to not be forced into slavery and/or involuntary servitude:** See number 146
12 and 147 above.

13 **149. Right to equal protection under the law:** It is obvious that under no condition
14 would ANY State agent be held for the “crime” of surviving a kidnapping attempt by a
15 drunken, drug induced maniac suffering from “roid rage.” The legislature wrote a
16 resolution and the then Governor signed into law A.R.S. § 13-418 to prevent sociopathic
17 prosecutors like Charbel from maliciously prosecuting ANYONE that survive a violent
18 “carjacking’ and/or kidnapping and/or assault while in their own personal vehicle. The
19 Law, known as “castle doctrine” has been highly effective in twenty five (25) other States
20 in reducing violent crime. Arizona is currently the ONLY State choosing to violate its
21 own laws and prosecute victims of these violent assaults, carjacking, and kidnappings.
22 The reasons for the prosecution of a kidnapping victim are heretofore still unclear, but it is
23 obvious Charbel has no concern for the Laws of the State of Arizona regardless of her
24 reasons for this instant malicious prosecution:
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1 Would Charbel prosecute a police officer if a drug induced maniac died
2 while assaulting, strangling, and violently removing the officer while the officer
3 was in the officer's vehicle?
4

5 Has Charbel used the kidnapping statutes to prosecute people that have
6 attacked other people in their own vehicle?
7

8 Has Charbel stated in other cases that a man with a .19 B.A.C. is more
9 violent than normal, even though she claims in this case the drunkenness would
10 make the man less violent? *It should be noted that in the manual issued to Charbel*
11 *it states that a man with a .19 B.A.C. is more aggressive.*
12

13 Would Charbel have a citizen that purposely violated the commands of a
14 warrant and destroyed evidence be charged?
15

16 Would Charbel charge a citizen that committed perjury to two (2) grand
17 juries in order to obtain a fraudulent and/or unlawful indictment?
18

19 Would Charbel charge a citizen that committed perjury to a judge to
20 fraudulently obtain a warrant?
21

22 **VI. Abridged list of prosecutorial and police misconduct that require**
23 **the case be dismissed with prejudice in the interest of justice**
24

25 150. Plaintiff incorporates herein by reference all the allegations made in the preceding
26 paragraphs of this Complaint as though each preceding allegation, statement, etc., is fully
27 set forth herein.
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151. ALL exculpatory evidence has been lost or refused to be recovered by police;

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i) Plaintiff's Clothes: The warrant commanded Plaintiff's clothes be confiscated, *as is standard practice*, yet Detective Dalton refused to take Plaintiff's clothes as the kidnapper's blood on Plaintiff's clothes would prove that the kidnapper was inside Plaintiff's vehicle when the kidnapper savagely attacked Plaintiff.

ii) Blood and urine: The warrant commanded Plaintiff's blood and urine to be taken, *as is standard practice*, yet Detective Dalton refused to take Plaintiff's blood and urine as such would prove that Plaintiff was sober when the kidnapper savagely attacked Plaintiff.

iii) Plaintiff requested medical assistance: Dalton refused to allow Plaintiff to be seen by medical personal as Plaintiff's injuries would have proven the kidnapper did violently assault Plaintiff.

iv) Holster and holster strap: The holster and strap are missing. This evidence would prove there was a fight over the gun as it is not possible for one man to tear the strap from the holster.

v) Vehicle: Plaintiff's vehicle has been left out in the elements so the blood evidence would be washed off. The placement of the blood on the vehicle proves that the kidnapper was up against and partially inside Plaintiff's vehicle when he savagely attacked Plaintiff.

vi) The kidnapper's steroid and LSD use: Robert E. Lyon, DO has not tested the kidnapper's hair for his admitted frequent use of LSD, and the kidnapper had a steroid inhaler in his possession when he savagely attacked Plaintiff.

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vii) The kidnapper had 900 ml of pinkish brown liquid inside of him: Robert E. Lyon, DO refused to test the liquid, which if all the liquid was alcohol would mean the kidnapper would soon die of alcohol poisoning.

viii) Dalton destroyed ALL original notes written by police officers and purposely entered altered descriptions into the Police computer system leaving ONLY hearsay evidence.

- 152. Perjury committed by Detective Dalton to grand jury.
- 153. Perjury committed by Prosecutor Charbel concerning warrant for IRS issue.
- 154. Refusal of Prosecution to charge the kidnapper with crimes committed by the kidnapper that lead to the death of the other kidnapper.
- 155. Failure of Public Defenders to file Notices of Appearance thereby causing Speedy Trial and Due process Rights to be violated.
- 156. Prosecutor Charbel attempted to coerce a witness into assisting her in falsely charging Defendant's primary witness with a crime to coerce said witness into changing her testimony.
- 157. Refusal of Judge McMurdie to allow Plaintiff to waive the Right of attorney and/or have his sole Authorized Representative represent him.

VII. Plaintiff was a kidnapping victim pursuant to Arizona Law

158. Plaintiff incorporates herein by reference all the allegations made in the preceding paragraphs of this Complaint as though each preceding allegation, statement, etc., is fully set forth herein.

1 159. A.R.S. §13-1304. Kidnapping:

- 2 A. A person commits kidnapping by knowingly restraining another
3 person with the intent to:
4 3. **Inflict death, physical injury** or a sexual offense on the **victim, or to**
5 **otherwise aid in the commission of a felony;** or
6 4. Place the **victim or a third person in reasonable apprehension of**
7 **imminent physical injury to the victim or the third person;** or
8 5. **Interfere with the performance of a governmental or political**
9 **function;** or
10 6. **Seize or exercise control over any** airplane, train, bus, ship or **other**
11 **vehicle.** (*All emphasis added*)

9 160. Re: Paragraph 159: The State is well aware that Plaintiff was working for Presidential
10 candidate Ron Paul at the time the kidnapper violently attacked Plaintiff. In fact, Charbel
11 attempted to use the fact Plaintiff was working for a third party candidate to impeach
12 Plaintiff's character as being that of a "political radical." Therefore, Charbel's own
13 admission proves conclusively that Charbel knew the kidnapper was "*Interfere[ing] with*
14 *the performance [by the Plaintiff] of a governmental or political function.*"

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16
17 161. Re: Paragraph 159: The use of the word **or** instead of **and** (*governmental or political*
18 *function*) causes the statute to mean a very clear and distinct difference between
19 governmental and political functions. These are two separate concepts and cannot be
20 redefined to mean that those performing a "political function" need be government
21 employees and/or paid for their services.
22

23 162. Re: Paragraph 159: At point is only whether Plaintiff was performing a political
24 function. We then look to Black's Law Sixth Edition:

- 25
26 a) Political: page 1158 "...having to do with organization or ACTION OF
27 INDIVIDUALS that seek to control appointment..."
28 b) Function: page 673, "...perform, execute or administer.."

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c) Campaign: page 205, “ALL the things... done by a candidate AND HIS ADHERENTS to obtain... votes. Any organized effort to promote a cause or to secure some definite result with any group of persons” (*All emphasis added*)

A. Political function is exactly that -- a political function -- which would include a myriad of duties and jobs whether volunteered or paid. Hanging banners for a company to draw customers would be a “company function” whether those hanging the banners were being paid or simply doing a friend a favor. Thus, someone hanging banners for a politician trying to be elected to a political office is by definition a “political function.”

B. Re: Paragraph 3, 4, and 6: The facts surrounding these paragraphs are too obvious to require any illumination to this Court.

C. It is incumbent on the State to file “accessory to kidnapping” charges against the kidnapper as her assistance to her husband’s assault and then her assault on the Plaintiff is by definition kidnapping. Yet Charbel has unlawfully chosen to consider the kidnapper a “victim” of her husband’s death instead of an accessory to her husband’s crime.

D. It is well settled that a victim escaping from the kidnappers is neither required nor expected to remain at the scene of the crime, especially if any of the kidnappers remain.

163. Charbel’s contention that Plaintiff fleeing from the scene of the incident is an admission of guilt is prejudicial and based on Charbel’s own failure to follow the law and charge the kidnapper with kidnapping.

1 **VII. SPEEDY TRIAL AND DUE PROCESS, NOTICE OF APPEARANCE**

2 164. Plaintiff incorporates herein by reference all the allegations made in the preceding
3 paragraphs of this Complaint as though each preceding allegation, statement, etc., is fully
4 set forth herein.
5

6 165. The combined errors committed by the Court against Plaintiff's substantive Rights
7 have created the very situation that the Court decided it should prevent in *Faretta v.*
8 *California.*
9

10 A. The Court has REFUSED to allow Plaintiff to represent himself, even
11 after being ruled competent by two Court ordered and State-paid psychologist
12 and/or psychiatrists. Johnson, who has been unlawfully forced upon Plaintiff has
13 violated numerous Rules of Criminal Procedure and flat out refuses to act in
14 Plaintiff's best interest. In fact, Johnson ONLY complies with McMurdie's and
15 Charbel's wishes and has NEVER acted in Plaintiff's best interest.
16

17 Faretta: the court further brought analogies to the Star Chamber, saying "the
18 Star Chamber has, for centuries, symbolized disregard of basic individual
19 rights. The **Star Chamber not merely allowed, but required, defendants**
20 **to have counsel.** [Counsel that worked for the Star Chamber.]", *as the*
Public Defender(s) obviously do in the case. (Emphasis added)

21 B. Johnson, and previous Public Defender Tyler Harrison, never entered
22 a Notice of Appearance as required by Rule 6.3(a).
23

24 C. Public Defender Tyler Harrison withdrew from the case three (3)
25 weeks before trial was scheduled, a violation of Rule 6.3(c). Harrison could not
26 have withdrawn if he was not already in violation of 6.3 (a).
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D. Johnson then violated 6.3(c) by immediately requesting a continuance, against Plaintiff's wishes and against Plaintiff's best interest.

E. By the Court acting as a STAR CHAMBER instead of an Arizona Criminal Court, the Court has caused its own tragedy of errors that have deprived Plaintiff of any possibility of a fair and impartial trial and grossly violated Plaintiff's Due Process Right to a Speedy Trial, and numerous other substantive Rights.

F. Plaintiff has numerous times attempted to have Johnson withdrawn as Plaintiff's attorney and in response McMurdie forced Plaintiff into a Rule 11 hearing, without a proper motion listing a reason for such, a violation of Rule 11.2, as a means to prevent Plaintiff from putting on a proper defense, something that Johnson is either incapable of or unwilling to do.

166. In fact, defendants have completely disregarded the possibility that Plaintiff has substantive Rights and has only sought ways to justify their own violations of Plaintiff's Substantive Rights and/or find grounds to continue to violate said Rights.

167. In accordance with the Public Defenders', Harrison and Johnson, violations of A.R.Crim.P. Rule 6.3, ALL motions, continuances, either requested and/or agreed with by either Public Defender, *which were ALL against Plaintiff's wishes and instructions*, MUST be stricken from the record, leaving the Court in the awkward situation of having the last day for prosecution as April 26, 2009, approximately nine (9) months passed.

168. **As a simpler timeline and cause and effect of events:**

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A. Public Defender Harrison took over the case and NEVER entered a Notice of Appearance: *a violation of Rule 6.3(a)*.

B. Public Defender Harrison resigned without another attorney being ready: *a violation of 6.3(c)*.

C. Public Defender Johnson took over the case and NEVER entered a Notice of Appearance: *a violation of Rule 6.3(a)*.

D. On July 6, 2009, the Plaintiff sent a letter to Public Defender Johnson and entered a motion terminating Johnson. Judge McMurdie never denied the motion; Judge McMurdie only ignored it and refused to hear the Plaintiff in court. Judge McMurdie disregarded everything Plaintiff said and directed his questions to Public Defender Johnson: *a violation of the Plaintiff's substantive Rights*.

E. Public Defender Johnson immediately requested a continuance: *violation of 6.3(c)*.

F. Plaintiff entered more motions and sent more letters to Public Defender Johnson and the Court “terminating and/or refusing” any and all Public Defenders, as required, which the Court denied: *a violation of Faretta*.

G. Judge McMurdie moved for a Rule 11 Hearing, and Public Defender Johnson concurred, *a violation of 11.2 and Plaintiff's best interest*.

H. Judge McMurdie has stricken from the record all motions entered by Plaintiff and has refused to allow Plaintiff to enter any motions: *a violation of Plaintiff's substantive Rights*.

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I. Although Plaintiff was deemed competent by two (2) court-appointed specialists, Public Defender Johnson moved for an evidentiary hearing; *a violation of the Plaintiff's substantive rights and Public Defender Johnson's requirement to conduct the case in the best interest of the Plaintiff.*

J. Judge McMurdie refused to allow the Plaintiff to leave the gallery in the hearing on December 14, 2009, to prevent the Plaintiff from moving the Court to allow the Plaintiff to be pro per, and/or pro se, and/or *sui juris: a violation of Faretta and the Plaintiff's substantive Rights.*

K. Judge McMurdie had stricken from the record a document listing the Court's crimes that was entered into evidence and signed by a Notary Public as a Judicial Notice: *a violation of ethical judicial conduct*

L. Since Plaintiff has been prevented from having counsel of his own choosing and/or forced to have a Public Defender who has already proven will not act in Plaintiff's best interest, and/or the Court is allowed to disregard the God given and Constitutionally protected Rights of Plaintiff, and/or the Judge can strike anything from the record that proves the crimes committed by the State's agents, there is no remaining possibility for Plaintiff to receive a fair trial and the Court has proven itself to be the very thing that this DISTRICT COURT is here to prevent, a STAR CHAMBER.

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1 **VIII. DUE PROCESS RIGHTS TO A HEARING**

2 169. Plaintiff incorporates herein by reference all the allegations made in the preceding
3 paragraphs of this Complaint as though each preceding allegation, statement, etc., is fully
4 set forth herein.
5

6 170. The Supreme Court recently determined that even an enemy combatant has a right to
7 due process to challenge his status. In *Hamdi v. Rumsfeld*, 547 U.S. 507 (2004)
8 (superseded by statute) the court stated:
9

10 We therefore hold that a citizen-detainee seeking to challenge his classification as
11 an enemy combatant must receive notice of the factual basis for his classification,
12 and a fair opportunity to rebut the Government's factual assertions before a neutral
13 decision maker. See *Cleveland Bd. of Ed. v. Loudermill*, 470 U.S. 532, 542, 84 L.
14 Ed. 2d 494, 105 S. Ct. 1487 (1985) ("An essential principle of due process is that a
15 deprivation of life, liberty, or property 'be preceded by notice and opportunity for
16 hearing appropriate to the nature of the case'" (quoting *Mullane v. Central Hanover*
17 *Bank & Trust Co.*, 339 U.S. 306, 313, 94 L. Ed. 865, 70 S. Ct. 652 (1950)));
18 *Concrete Pipe & Products of Cal., Inc. v. Construction Laborers Pension Trust for*
19 *Southern Cal.*, 508 U.S. 602, 617, 124 L. Ed. 2d 539, 113 S. Ct. 2264 (1993) ("due
20 process requires a 'neutral and detached judge in the first instance'" (quoting *Ward*
21 *v. Monroeville*, 409 U.S. 57, 61-62, 34 L. Ed. 2d 267, 93 S. Ct. 80 (1972))). "For
22 more than a century the central meaning of procedural due process has been clear:
23 'Parties whose rights are to be affected are entitled to be heard; and in order that
24 they may enjoy that right they must first be notified.' It is equally fundamental that
25 the right to notice and an opportunity to be heard 'must be granted at a meaningful
26 time and in a meaningful manner.'" *Fuentes v. Shevin*, 407 U.S. 67, 80, 32 L. Ed. 2d
27 556, 92 S. Ct. 1983 (1972) (quoting *Baldwin v. Hale*, 68 U.S. 223, 1 Wall. 223,
28 233, 17 L. Ed. 531 (1864); *Armstrong v. Manzo*, 380 U.S. 545, 552, 14 L. Ed. 2d
62, 85 S. Ct. 1187 (1965) (other citations omitted)). These essential constitutional
promises may not be eroded.

171. Plaintiff asserts that he was entitled to a hearing before the trial court to determine the
factual and legal issues that his statements in open Court and/or motions raised and he was
denied that procedural due process right by Judge McMurdie on the fraudulent grounds
Johnson was attorney of record, even though Johnson cannot be the attorney of record.

1 172. By refusing to allow Plaintiff to waive the Right of counsel the Court is attempting to
2 obfuscate Plaintiff's Rights to be heard on his statements and/or motion(s). This end run
3 by the Court is neither legal nor in the best interest of justice. In essence, the Court has
4 claimed by violating some of Plaintiff's Substantive Rights they can therefore violate
5 Plaintiff's other Substantive Rights.
6

7 173. If the Court did not violate Plaintiff's Substantive Rights, *waiver of counsel*, in the
8 first place then the Court would not have grounds to continue to violate Plaintiff's
9 Substantive Rights to be heard in the second place. Now the Court is attempting to use the
10 violations of Plaintiff's Substantive Rights as just cause to continue to violate ALL of
11 Plaintiff's Rights. This is similar to the Judge, Detective and Prosecutor cutting a man's
12 throat then tying a tourniquet around their victim's neck to cause his death, then using the
13 application of the tourniquet as a defense against charges for the cutting of the throat.
14 When in reality the tourniquet was just another part of the conspiracy to murder the victim.
15 Although this is a violently graphic analogy, the Court is conspiring in an equally vicious
16 manner to destroy the life of a man the Court is well aware is justified under Arizona Law
17 and therefore MUST withhold as many aspects of Arizona Law and Substantive Rights
18 from Plaintiff as possible.
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22 **IX. OTHER FACTORS**

23 174. Plaintiff incorporates herein by reference all the allegations made in the preceding
24 paragraphs of this Complaint as though each preceding allegation, statement, etc., is fully
25 set forth herein.
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1 175. Charbel had Plaintiff arrested by committing perjury to Judge Baca in claiming
2 Plaintiff's bond had been confiscated by the I.R.S. The I.R.S. never confiscated Plaintiff's
3 bond, nor is there any way to construe the letter sent by the I.R.S. ever intended the bond
4 to be confiscated. Said claim was a blatant lie by Charbel to a Judge.
5

6 176. The kidnapper had a .19 B.A.C. and a steroid inhaler in his pocket. He was also an
7 admitted, frequent L.S.D. user. Charbel failed to mention the later two facts to the grand
8 jury.
9

10 177. Charbel stated in open court that a B.A.C. of .19 would make the kidnapper easier to
11 control, which is in controversy to Charbel's own guidelines which claims a man with a
12 B.A.C. between .15 and .20 is much more aggressive and belligerent.
13

14 178. Charbel stated in open court that a B.A.C. of .19 would make the kidnapper easier to
15 control, which is in controversy to Charbel's own guidelines which claims a man with a
16 B.A.C. between .15 and .20 is much more aggressive and belligerent. It is a well known
17 scientific fact that a man that is extremely drunk and "high" on numerous other drugs can
18 be almost unstoppable by any man that is sober. The fact the kidnapper was drunk is
19 known, but the State has refused any attempt to discover if the kidnapper was also on
20 steroids and/or effected by his long term and frequent use of L.S.D.
21

22 179. It is also more than likely Charbel has made the exact opposite, *and more correct*,
23 claims that she has made in the case about the effects of .19 B.A.C. on the behavior of
24 people when Charbel is prosecuting said people for crimes caused by their drunkenness.
25

26 180. Charbel interviewed Plaintiff's ex-fiancé's/*common law wife* (Cynthia Cantrell, *the*
27 *Plaintiff's primary witness as she was in the vehicle at the time of the incident*) ex-
28

1 boyfriend (Shawn Harris) and NEVER informed the defense. Charbel offered Harris an
2 opportunity to have Cantrell charged for ANY crime Harris would dream up in attempt to
3 coerce Cantrell into changing her testimony.
4

5 181. Cantrell informed Charbel that Plaintiff had placed the kidnapper under arrest when
6 the kidnapper grabbed Plaintiff's gun from Plaintiff's vehicle and Charbel withheld such
7 information from the grand Jury. *It should be noted that a witness interviewed by Charbel*
8 *stated Charbel has a "hard on" for Plaintiff and Plaintiff's fiancé/common law wife, for*
9 *their filing of a BAR complaint against Charbel. [see: Exhibit D; Cantrell Affidavit]*
10

11 182. Detective Dalton destroyed ALL of the original notes by investigators and entered
12 grossly inaccurate statements into the police computer system. Charbel used these
13 inaccurate statements to confuse the witnesses before defense and/or prosecution
14 interviews in an attempt to cause the witnesses to change their testimony.
15

16 183. The kidnapper was inebriated at the time of the incident and has since changed her
17 testimony repeatedly without consequence from the Prosecution. The kidnapper even
18 stated in an interview with television media that her "husband sees red."
19

20 184. The kidnappers were in the act of committing at least twelve (12) crimes, *jointly*
21 *and/or severally, as the criminal and/or the accessory*, when they savagely attacked
22 Plaintiff inside Plaintiff's vehicle: 1 class 2 felony, 2 class 3 felonies, 6 class 6 felonies, 2
23 class 1 misdemeanors, 1 class 3 misdemeanor:
24

25 Charbel has evidence and/or witness statements claiming kidnappers were in the
26 act of committing numerous crimes, *pursuant to the following Arizona Revised*
27 *Statutes*, yet Charbel has refused to charge the surviving kidnapper :
28

1	1. <u>D.U.I.</u>	28-1381	28-1382.		
2	2. <u>Endangerment</u>	13-1201	13-1202	13-1203	13-1204
3	3. <u>Unlawful imprisonment/ Kidnapping</u>	13-1301	13-1303	13-1304	
4	4. <u>Criminal trespass</u>	13-1504			
5	5. <u>Criminal damage</u>	13-1602			
6	6. <u>Resisting arrest</u>	13-2508			

7

8 185. Accordingly, there is no lawful way Charbel may grant “victim” status to the
9 kidnapper. The kidnapper is in fact by law an accessory to multiple felonies committed by
10 her husband and the law requires she be charged for his death under the “felony murder
11 rule.”
12

13 186. Charbel, by and through the State, also charged Plaintiff with “drive by shooting.”
14 Not only is this charge completely groundless and ridiculously without merit, *as is the*
15 *second degree murder charge*, and ONLY added to confiscate Plaintiff’s vehicle, proves
16 Charbel’s fraudulent intent.
17

18 187. In fact, the obvious fact that ONLY the Plaintiff and not the Plaintiff’s vehicle was
19 searched and tested for G.S.R. proves conclusively that the incident itself was NEVER
20 investigated and ONLY the Plaintiff was investigated as a criminal and NEVER as a
21 victim.
22

23 188. Charbel, Dalton, and Shearer’s attempt to claim Plaintiff as a radical on the grounds
24 Plaintiff had in Plaintiff’s vehicle equipment requested by the DEPARTMENT OF
25 HOMELAND SECURITY for people to have in their possession, *at all times for*
26 *emergencies*, not only proves defendant’s fraudulent investigation and prosecution, it also
27 proves defendant’s are ignorant of the Law and therefore completely incapable of making
28

1 correct determinations concerning the Law and/or investigations and/or prosecutions. [*see*:
2 Exhibit E; National Terror Alert Response Center; America's leading Source For
3 Homeland Security News, Information and Resources: commerce items].

4
5 189. The fact Charbel, Dalton, and Shearer as a group and/or individuals are so ignorant of
6 the said Federal requirement and are themselves in violation of the said requirement, at
7 least in their official capacities, proves their ineptness and/or their willingness and
8 determination to cross any line to prosecute a man they know is innocent.

9
10 190. In fact, it is reprehensible and should be repugnant to this Court that Charbel, Dalton,
11 and Shearer have not been sanctioned by their offices for attempting to charge a man with
12 a crime that they are actually criminals by violating.

13
14 191. This single fact proves conclusively the conspiracy of the defendants, regardless of
15 their ineptness. The defendants attempted to falsely charge and wrongfully imprison
16 Plaintiff on the grounds Plaintiff was following a request to ALL people by a Federal
17 agency that is also an order to defendants, *due to their government employment*, that
18 defendants are blatantly and willfully disobeying.

19
20 **192. IN ESSENCE, DEFENDANTS DID ATTEMPT TO FRAUDULENTLY USE A**
21 **FEDERAL “ORDER” DEFENDANTS ARE VIOLATING AS A “LAW” TO**
22 **FALSELY CHARGE AND WRONGFULLY IMPRISON PLAINTIFF ON THE**
23 **GROUNDS PLAINTIFF WAS COMMITTING A CRIME FOR ACTUALLY**
24 **FOLLOWING THE VERY SAME “ORDER.” One can therefore only ask; “are the**
25 **defendants blatantly corrupt, and/or completely inept, and/or inexcusably ignorant.”**
26

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1 **X. SUMMARY**

2 193. Plaintiff incorporates herein by reference all the allegations made in the preceding
3 paragraphs of this Complaint as though each preceding allegation, statement, etc., is fully
4 set forth herein.
5

6 194. The most important, *and possibly all*, pieces of exculpatory evidence, *evidence that*
7 *proves conclusively Plaintiff was being violently assaulted during a kidnapping while in*
8 *his own vehicle*, have either been destroyed or purposely not collected by the same
9 Detective who committed perjury to two (2) grand juries, and considered Plaintiff a
10 “political radical” for having copies of the U.S. Constitution, The Bill of Rights, the
11 Declaration of Independence, and the emergency equipment the federal government
12 requests that all people have.
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15 195. The Public Defenders have violated several Rules of Criminal Procedure and neither
16 has ever acted in accordance with Plaintiff’s wishes and/or Plaintiff’s best interest.

17 196. Charbel withheld pertinent information to both grand juries, assisted the Detective in
18 committing perjury, and has been grossly negligent in her duties, *and shall be held*
19 *criminally liable*, by purposely allowing a person who assisted in a kidnapping and violent
20 assault against another person to receive “victim” protection status.
21

22 197. The Judge has violated several of Plaintiff’s substantive Rights and even forced
23 Plaintiff to have an attorney who is more concerned with assisting Charbel and not
24 upsetting the Judge than in assisting Plaintiff as the examples have conclusively proven.
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1 198. More simply put, the State agents have chosen to commit multiple criminal acts to
2 protect a person who is an accessory to kidnapping by falsely prosecuting a man whose
3 accused actions the law justifies for surviving the same kidnapping.
4

5 199. Simply put, Charbel has chosen to protect a violent criminal through numerous
6 unlawful acts in an effort to unlawfully prosecute a man that the law is designed to protect
7 for being justified in self defense. This is the only case in history Plaintiff could find
8 where a prosecutor has chosen to protect a kidnapper by prosecuting the victim.
9

10 /

11 **WHEREFORE, Plaintiff, JOHN STUART, respectfully requests judgment against**
12 **defendants, Judge Paul McMurdie, Prosecutor Susie Charbel, Detective Paul Dalton,**
13 **Detective Al Shearer, Public Defender John Johnson, Public Defender Tyler**
14 **Harrison, Robert E. Lyon, DO , jointly and severally, as follows:**

15
16 **A. Awarding Plaintiff compensatory damages in the amount of at least Eight**
17 **Million Dollars (\$8,000,000.00), incurred as a result of the actions of Judge Paul**
18 **McMurdie, Prosecutor Susie Charbel, Detective Paul Dalton, Detective Al Shearer,**
19 **Public Defender John Johnson, Public Defender Tyler Harrison, Medical Examiner**
20 **Robert E. Lyon, DO, and/or compensatory damages in the amount reached based**
21 **upon proof at trial of this action, together with interest at the legal rate from the date**
22 **of judgment until paid in full; and**
23
24

25 **B. Holding that the criminal case shall not continue until defendants respond**
26 **and disprove ALL of the aforementioned allegations; and**
27
28

1 **C. Holding that the criminal case shall not continue until defendants pay**
2 **Plaintiff the monetary damages incurred in connection with the fraudulent**
3 **indictment; and**

4
5 **D. Dismissing and/or vacating all orders, holdings, sanctions, and any other**
6 **Judicial rulings by Judge McMurdie and all other judges in this matter from**
7 **January 31, 2008, to date; and**

8 **D. Removing Judge McMurdie from further adjudication of the case; and**

9
10 **E. Awarding Plaintiff punitive damages against Judge McMurdie and all other**
11 **defendants, jointly and severally, in such amount that will sufficiently punish the**
12 **above captioned defendants for their willful and/or malicious and/or *ultra vires***
13 **conduct, and as will serve as an example to prevent a repetition of such conduct in**
14 **the future; and**

15
16 **G. That Plaintiff be awarded reasonable attorney's fees, litigation costs and**
17 **other expenses Plaintiff incurs in this lawsuit; and**

18 **H. Granting Plaintiff such additional relief as this Court deems just; and**

19 **I. Order the Superior Court to dismiss with prejudice CR2008-106594; and**

20 **J. Granting other awards to Plaintiff in accordance with precedents**
21 **appropriate for malicious prosecution and/or wrongful imprisonment; and**

22 **K. Permanently enjoin defendants from ever repeating this tragedy; and**

23 **L. Issue a Brady letter to be put into Dalton and Shearer' permanent files.**

24
25
26 **WHEREAS, the facts listed herein shall serve as my affidavit to the facts and truth in**
27 **this matter.**

1 **WHEREAS, Plaintiff also has the Substantive Right to rely on and expect the Court**
2 **to adhere to, *including without limits the Rights, procedures and estoppels granted by***
3 ***such*, the Arizona Rules of Criminal Procedure, and Arizona Revised Statues, and**
4 **Arizona Rules of Evidence and the Arizona Constitution and the United States**
5 **Constitution.**

7 **WHEREAS, the Laws, Rules, Amendments contained herein as fully set forth HAVE**
8 **NOT BEEN ABROGATED AND/OR AMENDED and therefore stand and this court**
9 **MUST acknowledge said Laws, Rules, and Amendments and act accordingly; and**

11 **WHEREAS, the facts and the law contained herein are before this court; and**

12 **WHEREAS, the facts and the law contained herein are the Truth; and**

13 **WHEREAS, we hold said Truths to be self-evident; and**

14 **WHEREAS, self-evident Truths are undisputed and incontrovertible, and no words**
15 **can alter or overcome these Truths; and,**

17 **WHEREAS, Truth is Sovereign: She comes from God and bears His message, from**
18 **whatever quarter her great eyes may look down upon you; Psalms 117:2; John 8:32;**

19 **II Corinthians. 13:8; and**

21 **WHEREAS, in the book of Exodus at 22:2 in the King James version of the**
22 **Bible, copyright 1612, the foundation of and preeminent cause and force of this**
23 **Nation's and State's Laws, and in fact a primary force in the founding of this great**
24 **Nation, states: "If a thief is caught breaking in and is struck so that he dies, the**
25 **defender is not guilty of bloodshed".**

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VERIFICATION

I, John Stuart declare, verify, and affirm as follows:

1. I, John C. Stuart, *sui juris, a natural being*, and known *in juris prudence* as a “laymen,” am the sole Authorized Representative for Plaintiff, JOHN STUART, *ens legis*, in this lawsuit and, as such, I am authorized to make this verification.
2. John Stuart has read the foregoing Complaint and know the contents thereof, and declare, verify, and affirm, as prescribed by federal law, that the same is true and correct, to the best of my knowledge, information and belief.

Executed this _____ day of January, 2010, at Tolleson, Arizona.

John C. Stuart

By: [_____], agent

Date: _____

Original of the foregoing filed with court on: _____

By: [_____], agent